

(2015) 01 UK CK 0048

In the Uttarakhand High Court

Case No : Criminal Misc. Application No. 24 of 2015

Murtaja Ali and Others

APPELLANT

Vs

State of Uttarakhand and Others

RESPONDENT

Date of Decision : 13-01-2015

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 320, 482
Penal Code, 1860 (IPC) — Section 307, 308, 325, 332

Citation : (2015) 89 ALLCC 137

Hon'ble Judges : Umesh Chandra Dhyani, J

Bench : Single Bench

Advocate : Harshpal Sekhon, for the Appellant; H.O. Bhakuni, A.G.A., Advocates for the Respondent

Final Decision : Disposed off

Judgement

Umesh Chandra Dhyani, J.—By means of present application under section 482 Cr.P.C., the applicants seek to quash the Criminal Case No. 5042 of 2014, captioned as State v. Murtaja Ali and others under sections 325, 332 and 308 IPC, pending in the Court of learned Chief Judicial Magistrate, Rudrapur, District Udham Singh Nagar. A charge-sheet has been submitted against the applicants for the offences punishable under sections 325, 332 and 308 IPC. A compounding application has been filed by the parties to indicate that they have buried their differences and settled their disputes amicably. The compounding application is supported by the affidavits of Murtaja Ali, (applicant), Nazeer Ahmad, (injured/complainant), Sharif Ahmad (injured) and Imran (injured). Injured persons, namely, Nazeer Ahmad, Sharif Ahmad and Imran are present in person, duly identified by their Counsel Mr. Vikas Anand. All the injured persons including the complainant say that they are not interested in prosecuting the applicants, inasmuch as, the dispute has already been resolved with the intervention of some elderly persons of the society. They seek permission to compound the offences alleged against the applicants. All the applicants are also present in person duly identified by their Counsel Mr. Harshpal Sekhon.

2. The offence punishable under sections 325 IPC is compoundable offence within the scheme of section 320 Cr.P.C. The other offences, especially under section 308 IPC is non-compoundable offence.

3. The question, which arises for consideration of this Court is whether the complainant and injured persons should be permitted to compound the offences alleged against the accused-applicants or not?

4. Learned Counsel for the parties drew the attention of this Court towards the judgment rendered by Hon''ble Apex Court on 6th December, 2012, in Transfer Petition (Criminal) No. 115 of 2012 Dimpey Gujral and Others Vs. Union Territory Through Administrator, U.T. Chandigarh and Others, AIR 2013 SC 518 : (2013) CriLJ 520 : (2012) 6 CTC 829 : (2012) 12 JT 80 : (2013) 1 RCR(Criminal) 745 : (2012) 11 SCALE 589 in which the Hon''ble Apex Court, relying upon Gian Singh Vs. State of Punjab and Another, (2012) 9 JT 457 : (2012) 9 JT 426 : (2012) 9 SCALE 257 : (2012) 10 SCC 303 permitted the injured to compound the offence punishable under section 307 IPC.

5. Learned Counsel for the parties also drew the attention of this Court towards the ruling of Gian Singh Vs. State of Punjab and Another, (2012) 9 JT 457 : (2012) 9 JT 426 : (2012) 9 SCALE 257 : (2012) 10 SCC 303 in which Hon''ble Supreme Court observed as below:--

"The position that emerges from the above discussion can be summarised thus: the power of the High Court in quashing a criminal proceeding or FIR or complaint in exercise of its inherent jurisdiction is distinct and different from the power given to a Criminal Court for compounding the offences under section 320 of the Code. Inherent power is of wide plenitude with no statutory limitation but it has to be exercised in accord with the guideline engrafted in such power viz (i) to Secure the ends of justice or (ii) to prevent abuse of the process of any Court. In what cases power to quash the criminal proceeding or complaint or F.I.R may be exercised where the offender and victim have settled their dispute would depend on the facts and circumstances of each case and no category can be prescribed. However, before exercise of such power, the High Court must have due regard to the nature and gravity of the crime. Heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. cannot be fittingly quashed even though the victim or victim's family and the offender have settled the dispute. Such offences are not private in nature and have serious impact on society. Similarly, any compromise between the victim and offender in relation to the offences under special statutes like Prevention of Corruption Act or the offences committed by public servants while working in that capacity etc. cannot provide for any basis for quashing criminal proceedings involving such offences. But the criminal cases having overwhelmingly and pre-dominantly civil flavour stand on different footing for the purposes of quashing, particularly the offences arising from commercial, financial, mercantile, civil, partnership or such like transactions or the offences arising out of matrimony relating to dowry, etc. or the family disputes where the wrong is basically private or personal in nature and

the parties have resolved their entire dispute. In this category of cases, High Court may quash criminal proceedings if in its view, because of the compromise between the offender and victim, the possibility of conviction is remote and bleak and continuation of criminal case would put accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal case despite full and complete settlement and compromise with the victim. In other words, the High Court must consider whether it would be unfair or contrary to the interest of justice to continue with the criminal proceeding or continuation of the criminal proceeding would tantamount to abuse of process of law despite settlement and compromise between the victim and wrongdoer and whether to secure the ends of justice, it is appropriate that criminal case is put to an end and if the answer to the above question(s) is in affirmative, the High Court shall be well within its jurisdiction to quash the criminal proceeding."

6. A reference may also be had to the decision of Narendra Singh and others v. State of Punjab and another, 2014 (137) AIC 1 (SC) in this regard.

7. The reply to the question, posed by this Court in para No. 4 of this Judgment, therefore, is in the affirmative. Otherwise also, it will be a futile exercise if proceedings of the criminal case against the applicants are kept pending when the parties have settled their disputes amicably.

8. Permission to compound the offences, is granted. As a consequence thereof, the proceedings of Criminal Case No. 5042/2014, captioned as State v. Murtaja Ali and others, under sections 325, 332 and 308 IPC, pending in the Court of Chief Judicial Magistrate, Rudrapur, District Udham Singh Nagar are hereby quashed on the basis of compromise entered into between the parties. Application under section 482 Cr.P.C. is thus disposed of in terms of compromise arrived at between the parties.