

(2024) 06 SHI CK 0030

In the High Court Of Himachal Pradesh

Case No : Criminal miscellaneous petition No. 341 of 2024

Neeraj Kumar and Others

APPELLANT

Vs

State of Himachal Pradesh and Ors.

RESPONDENT

Date of Decision : 15-06-2024

Acts Referred:

Code of Criminal Procedure 1973 — Section 320, 482

Indian Penal Code 1860 — Section 451, 323, 324, 504, 506, 34

Citation : (2024) 06 SHI CK 0030

Hon'ble Judges : Sandeep Sharma, J

Bench : Single Bench

Advocate : Sandeep Sharma, Rajan Kahol, Vishal Panwar, B.C. Verma, Ravi Chauhan, Anchal Sharma

Final Decision : Disposed Off

Judgement

Sandeep Sharma, J

By way of present petition filed under Section 482 CrPC, prayer has been made by the petitioners-accused for quashing of FIR No.11/2020 dated 05.01.2020 under Sections 451, 323, 324, 504, 506 and 34 of IPC, registered at police Station Indora, District Kangra, H.P., alongwith consequential proceedings pending in the competent court of law, on the basis of compromise.

2. Precisely, the case of the petitioners, as emerge from the pleadings is that the FIR sought to be quashed in the instant proceedings came to be lodged at the behest of the respondent No.2-Pawan Kumar, who alleged that on 04.01.2020, petitioner Neeraj kumar parked his car bearing registration No.CH-01-AM-2513 in front of his shop, but when he requested aforesaid Neeraj Kumar to remove his vehicle, he started extending threats. He alleged that on 05.01.2020 at about 8:00 p.m., Neeraj Kumar along with his friends again came to his shop in the aforesaid car and started hurling abuses. He alleged Neeraj Kumar as well as his friends also gave beatings to him as well as Surender Kumar and threw baskets of vegetables kept in his shop. He alleged that after having heard hue and cry,

person namely Anshu rescued them from the clutches of Neeraj Kumar, Ankush Sharma @ Anshu and Ankush Sharma @ Happy, who had also come along with Neeraj Kumar. On the basis of aforesaid complaint, FIR sought to be quashed in the instant petition came to be lodged at the behest of respondent No.3-Pawan Kumar.

3. Though after completion of the investigation, police presented Challan in the competent Court of law, but before same could be taken to its logical end, parties to the lis have resolved to settle their dispute amicably inter se them by way of compromise placed on record and as such, petitioner has approached this Court in the instant proceedings, praying therein to quash and set-aside the FIR as well as consequent proceedings pending before the competent court of law.

4. With a view to ascertain the correctness of compromise placed on record, this Court vide order dated 03.05.2024, specifically called upon the parties to come present before this Court and also called upon respondent/State to file status report. Respondent No.1 has filed reply under the signatures of Superintendent of Police, Nurpur, which is silent about compromise.

5. Petitioners as well as respondents No.2 to 4 have also come present. Respondents No.2 to 4 are being represented by Ms. Anchal Sharma, Advocate, who stated on oath that they of their own volition and without there being any external pressure have entered into compromise. They further stated that FIR sought to be quashed is a result of misunderstanding and since the petitioners have already apologized for their misbehavior, coupled with the fact that they have undertaken not to repeat such act in future, they shall have no objection in case aforesaid FIR as well as consequential proceedings pending in the competent Court of law are quashed and set aside and the petitioners are acquitted for the offences alleged in the FIR.

6. Having heard statement made on oath by respondents No.2 to 4, Mr. Rajan Kahol, learned Additional Advocate General, stated that no fruitful purpose will be served in case FIR as well consequent proceedings are allowed to continue against the petitioners. He further stated that otherwise also, chances of conviction are remote and bleak, on account of statement made by respondents No.2 to 4, as such, he shall have no objection in case prayer made on behalf of the petitioners is accepted and FIR in question alongwith consequential proceedings is quashed and set aside and petitioners are acquitted.

7. The question which now needs consideration is whether FIR in question can be ordered to be quashed when Hon'ble Apex Court in *Narinder Singh and others versus State of Punjab and another* (2014)6 SCC 466 has specifically held that power under S. 482 CrPC is not to be exercised in the cases which involve heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. Such offences are not private in nature and have a serious impact on society.

8. At this stage, it would be relevant to take note of the judgment passed by

Hon'ble Apex Court in Narinder Singh (supra), whereby the Hon'ble Apex Court has formulated guidelines for accepting the settlement and quashing the proceedings or refusing to accept the settlement with direction to continue with the criminal proceedings. Perusal of judgment referred to above clearly depicts that in para 29.1, Hon'ble Apex Court has returned the findings that power conferred under Section 482 of the Code is to be distinguished from the power which lies in the Court to compound the offences under Section 320 of the Code. No doubt, under Section 482 of the Code, the High Court has inherent power to quash criminal proceedings even in those cases which are not compoundable and where the parties have settled the matter between themselves, however, this power is to be exercised sparingly and with great caution. In para Nos. 29 to 29.7 of the judgment Hon'ble Apex Court has laid down certain parameters to be followed, while compounding offences.

9. Careful perusal of para 29.3 of the judgment suggests that such a power is not to be exercised in the cases which involve heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. Such offences are not private in nature and have a serious impact on society. Apart from this, offences committed under special statute like the Prevention of Corruption Act or the offences committed by Public Servants while working in that capacity are not to be quashed merely on the basis of compromise between the victim and the offender. On the other hand, those criminal cases having overwhelmingly and predominantly civil character, particularly arising out of commercial transactions or arising out of matrimonial relationship or family disputes may be quashed when the parties have resolved their entire disputes among themselves.

10. The Hon'ble Apex Court in Gian Singh v. State of Punjab and anr. (2012) 10 SCC 303 has held that power of the High Court in quashing of the criminal proceedings or FIR or complaint in exercise of its inherent power is distinct and different from the power of a Criminal Court for compounding offences under Section 320 Cr.PC. Even in the judgment passed in Narinder Singh's case, the Hon'ble Apex Court has held that while exercising inherent power of quashment under Section 482 Cr.PC the Court must have due regard to the nature and gravity of the crime and its social impact and it cautioned the Courts not to exercise the power for quashing proceedings in heinous and serious offences of mental depravity, murder, rape, dacoity etc. However subsequently, the Hon'ble Apex Court in Dimpey Gujral and Ors. vs. Union Territory through Administrator, UT, Chandigarh and Ors. (2013) 11 SCC 497 has further reiterated that continuation of criminal proceedings would tantamount to abuse of process of law because the alleged offences are not heinous offences showing extreme depravity nor are they against the society. Hon'ble Apex Court further observed that when offences of a personal nature, burying them would bring about peace and amity between the two sides.

11. Hon'ble Apex Court in its judgment dated 4th October, 2017, titled as Parbatbhai Aahir @ Parbatbhai Bhimsinhbhai Karmur and others versus State of

Gujarat and Another, passed in Criminal Appeal No.1723 of 2017 arising out of SLP(Crl) No.9549 of 2016, reiterated the principles/ parameters laid down in Narinder Singh's case supra for accepting the settlement and quashing the proceedings.

12. In the case at hand also, offences alleged to have been committed by petitioner do not involve offences of moral turpitude or any grave/heinous crime, rather same are petty offences, as such, this Court deems it appropriate to quash the FIR as well as consequential proceedings thereto, especially keeping in view the fact that parties have compromised the matter inter se them, in which case, possibility of conviction is remote/bleak and no fruitful purpose would be served in continuing with the criminal proceedings.

13. Since parties have compromised the matter with each other and respondents No.2 to 4, at whose instance FIR sought to be quashed in the instant proceedings came to be lodged, are no more interested in pursuing the criminal prosecution of the petitioners, this Court sees no impediment in accepting the prayer made on behalf of the petitioners for quashing of the FIR alongwith all consequential proceedings.

14. Consequently, in view of the aforesaid discussion as well as law laid down by the Hon'ble Apex Court (supra), FIR No.11/2020 dated 05.01.2020 under Sections 451, 323, 324, 504, 506 and 34 of IPC, registered at police Station Indora, District Kangra, H.P., alongwith consequential proceedings is quashed and set aside. Accused are acquitted of the charges framed against him. The petition stands disposed of in the aforesaid terms, alongwith all pending applications.