

(2018) 05 RAJ CK 0271
In the Rajasthan High Court
Case No : Criminal Writ No. 593 of 2018

Onkarmal @APPELLANT@Hash State of Rajasthan & Ors.

Date of Decision : 29-05-2018

Acts Referred:

Indian Penal Code, 1860 — Section 120B, 198, 420, 467, 468, 471

Citation : (2018) 05 RAJ CK 0271

Hon'ble Judges : DEEPAK MAHESHWARI, J

Bench : Single Bench

Advocate : Ganpat Lal

Final Decision : Allowed

Judgement

Members of the Bar including the State counsel are not putting up their presence today in the Court.

The petitioners Onkarmal and Sumitra Devi are present in person. The complainant-respondent Ganpat Lal is also present in person.

To prove his identity, the complainant-respondent Ganpat has submitted photo copies of Voter Identity card issued by Election Commission of India,

and the pass-book issued by Jaipur Thar Gramin Bank, Branch Badhal, Jaipur.

This criminal writ petition has been preferred by the accused-petitioners against the order impugned dated 6.12.2017 whereby the learned trial court

has rejected the application filed by the accused-petitioners and the complainant for getting the compromise attested for the offences under Secs.420,

467, 468, 471, 198, 200 and 120B IPC stating that the offences are of grave nature. The petitioners submit that the FIR No.152/2015 P.S. Renwal,

Distt. Jaipur Rural came to be filed out of the political rivalry arising on account of election dispute. Later-on the complainant Ganpat realizing the

truth, came forward to enter into compromise with the accused-petitioners.

Thereafter, an application was filed on 6.12.2017 before the trial court to attest the compromise entered into between the parties but the same was rejected vide order impugned dated 6.12.2017

The complainant-respondent no.2 Ganpat, who is present in person in the court also admits that the matter has been amicably settled between the parties which arose because of political rivalry on account of some election dispute. He also admits that the application for attesting the compromise submitted by him before the trial court has been rejected vide order impugned dated 6.12.2017.

In the facts & circumstances mentioned above, it appears that if the proceedings pending before the trial court are allowed to continue, it will merely be a formality and will amount to only an abuse of process of court and law as there is bleak possibility for recording any conviction against the accused-petitioners in view of compromise entered into between the parties.

In (2012) 10 Supreme Court Cases 303, Gain Singh V/s State of Punjab and Another, it has been held by Honâ??ble Supreme Court as under :-

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 victimâ??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.

Taking into consideration this legal proposition laid down by Honâ??ble Supreme Court as also the relevant facts which have stated above, this Court

feels inclined to allow this writ petition and quash and set aside the proceeding in criminal case No.275/2016 (532/2017) titled as State of Rajasthan

Vs. Onkarmal and anr. pending before the court of learned Additional Chief Judl. Magistrate-cum-Sr.Civil Judge, Sambher Lake, District Jaipur.

The petition stands accordingly allowed.