
(2015) 03 UK CK 0011

In the Uttarakhand High Court

Case No : Criminal Revision No. 238 of 2010

Pawan and Others

APPELLANT

Vs

State of Uttarakhand and Others

RESPONDENT

Date of Decision : 02-03-2015

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 320
Penal Code, 1860 (IPC) — Section 429

Citation : (2015) 03 UK CK 0011

Hon'ble Judges : Umesh Chandra Dhyani, J.

Bench : Single Bench

Advocate : Manish Arora, for the Appellant; S.S. Adhikari, Brief Holder, Advocates for the Respondent

Final Decision : Allowed

Judgement

Umesh Chandra Dhyani, J.—The accused-revisionists were convicted under Section 429 IPC and were sentenced appropriately, vide judgment and order dated 11.12.2007 passed by Judicial Magistrate, Roorkee, District Haridwar in criminal case no.1763/2007. Aggrieved against the conviction and sentence, a criminal appeal was filed by the convicts before the Addl. Sessions Judge, Roorkee, District Haridwar, wherein the criminal appeal was dismissed, vide judgment and order dated 02.11.2010 passed by the Addl. Sessions Judge, Roorkee, District, Haridwar.

2. Still aggrieved against the same, present criminal revision was filed before this Court.

3. A Compounding Application (CRMA No. 301 of 2015) is filed before this Court to show that the parties have settled their disputes amicably. The compounding application is supported by affidavits of Pawan (revisionist no.1 herein) and respondent no.2-Islam. Islam, who is the owner of the cattle/animal, is present in person, duly identified by his counsel Mr. Sajjad Ahmad. Both the revisionists are also present in person before this Court, duly identified by their counsel Mr.

Manish Arora. The respondent no.2 (owner of the cattle/animal) stated before this Court that he does not wish to prosecute the revisionists, inasmuch as, a compromise has taken place between them. He prayed that he may be permitted to compound the proved offence against the revisionists and the criminal revision be allowed.

4. Offence under Section 429 IPC is compoundable within the scheme of Section 320 Cr.P.C. The question is - whether the complainant/respondent no.2 should be permitted to compound such proved offence against the convicts or not?

5. Learned counsel for the parties drew attention of this Court towards the decision of Hon''ble Supreme Court in Narinder Singh and Others Vs. State of Punjab and Another, .

6. Reliance was also placed upon the pronouncement of the Hon''ble Apex Court in Gian Singh Vs. State of Punjab and Another, , wherein Hon''ble Apex Court has observed as below:

The position that emerges from the above discussion can be summarized 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 of 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 proceedings 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. 7. It will be useful to reproduce herein Sub-Section (5) of Section 320 Cr.P.C. as follows:

320 (5)- When the accused has been committed for trial or when he has been convicted and an appeal is pending, no composition for the offence shall be allowed without the leave of the Court to which he is committed, or, as the case may be, before which the appeal is to be heard. 8. Since the criminal revision is pending before this Court against the conviction of the accused-revisionists, therefore, the owner of the cattle/animal (respondent no.2) is seeking leave of this Court to permit him to compound the offence, for which the accused-revisionists have been convicted. Sub-Section (5) of Section 320 Cr.P.C. is meant for those offences, which are compoundable offences within the Scheme of Section 320 Cr.P.C.

9. Since the owner of the cattle/animal has buried all his differences against the revisionists, therefore, he should be permitted to compound the offence proved against the revisionists by this Court in exercise of its inherent jurisdiction, as per the guidelines provided by Hon"ble Apex Court in order to maintain peace in the society and to secure the ends of justice.

10. Compounding Application is allowed in the interest of justice. As a consequence thereof, the Criminal Revision is allowed. The impugned judgments and orders are set-aside. The conviction and sentence awarded to the revisionists are also set aside.