
(2014) 08 UK CK 0056

In the Uttarakhand High Court

Case No : Criminal Misc. Application No. 987 of 2014

Rahul Goyal

APPELLANT

Vs

State of Uttarakhand

RESPONDENT

Date of Decision : 28-08-2014

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 320, 482
Dowry Prohibition Act, 1961 — Section 3, 4
Penal Code, 1860 (IPC) — Section 294, 323, 498A, 506, 509

Citation : (2014) 2 NCC 592

Hon'ble Judges : Umesh Chandra Dhyani, J

Bench : Single Bench

Advocate : M.K. Goyal, Advocate for the Appellant; D.K. Sharma, Learned Additional Advocate General, assisted by K.S. Rawal, Brief Holder, Advocate for the Respondent

Judgement

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Umesh Chandra Dhyani, J.—By means of present application under Section 482 Cr.P.C., the applicant seeks to quash the proceedings of Criminal Case No. 495 of 2012, captioned as State v. Rahul Goyal, under Sections 498-A, 323, 506, 294, 509 of IPC, Section 3/ 4 of the Dowry Prohibition Act and 67/72 of the Immoral Traffic (Prevention) Act, pending in the Court of Chief Judicial Magistrate, Nainital, A charge-sheet was submitted against the applicant and two others for the offences punishable under Sections 498-A, 323, 506, 294, 509 of IPC, Section 3/ 4 of the Dowry Prohibition Act and 67/72 of the Immoral Traffic (Prevention) Act. Accused-applicant was summoned to face the trial for the selfsame offences. Aggrieved against the same, present application under Section 482 Cr.P.C. was filed by the petitioner.

2. A compounding application being CRMA No. 1280 of 2014 has been filed by the parties, to indicate that they have buried their differences and have settled their disputes amicably. The terms of settlement are indicated in para 9 of the

compounding application. The compounding application is supported by affidavits of Smt. Priti Goyal (respondent No. 2, victim-wife) and the petitioner Rahul Goyal (husband). Respondent No. 2 Smt. Preeti Goyal @ Priti Bisht is present in person, duly identified by her counsel Mr. Yogesh Tiwari, Advocate. Petitioner Rahul Goyal, is also present, duly identified by his counsel Mr. M.K. Goyal, Advocate. They stated that both of them (husband and wife) have decided to have separation from each other, for which they will file suit for divorce with the mutual consent. Respondent No. 2 also stated that she is not interested in prosecuting the applicant in the present case. In other words, respondent No. 2 (the person aggrieved) has exonerated the present applicant.

3. The question, which arises for consideration of this Court is-whether the respondent No. 3 should be permitted to compound the offences against the accused-applicant under Sections 498-A, 323, 506, 294, 509 of IPC, Section 3/ 4 of the Dowry Prohibition Act and 67/72 of the Immoral Traffic (Prevention) Act or not?

4. Learned counsel for the parties drew the attention of this Court towards the ruling of Gian Singh Vs. State of Punjab and Another, , 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."

5. The instant case is squarely covered by the above ruling of the Hon''ble Supreme Court. The obvious reply to the question posed above is in the affirmative in view of the ruling of Hon''ble Apex Court in Gian Singh's case (supra). Otherwise also, it will be a futile exercise if proceeding of the criminal case against the applicants are kept pending when the parties have settled their disputes amicably.

6. Compounding Application No. 1280 of 2014 is thus allowed. As a consequence of the same, the proceedings of Criminal Case No. 495 of 2012, captioned as State v. Rahul Goyal, under Sections 498-A, 323, 506, 294, 509 of IPC, Section 3/ 4 of the Dowry Prohibition Act and 67/72 of the Immoral Traffic (Prevention) Act, pending in the Court of Chief Judicial Magistrate, Nainital, are hereby quashed against the applicant. Application under Section 482 Cr.P.C. is thus disposed of in terms of compromise arrived at between the parties.