
(2013) 07 UK CK 0015

In the Uttarakhand High Court

Case No : Criminal Miscellaneous Application (C-482) No. 249 of 2007

Raj Kumar Garg and Others

APPELLANT

Vs

State of Uttarakhand and Others

RESPONDENT

Date of Decision : 02-07-2013

Acts Referred:

Citation : (2013) 2 NCC 686

Hon'ble Judges : Umesh Chandra Dhyani, J

Bench : Single Bench

Advocate : Prabha Naithani, for the Appellant; P.S. Saun, AGA and Mr. S.K. Shandilya, Advocate, for the Respondent

Final Decision : Allowed

Judgement

Umesh Chandra Dhyani, J.—The applicants, by means of present application/petition u/s 482 of Cr.P.C., seek to quash the chargesheet No. 205 of 2006, dated 02.09.2006, u/s 498A of IPC and Section 3/4 of the Dowry Prohibition Act, filed before learned Addl. Chief Judicial Magistrate, Haridwar, in criminal case No. 1530 of 2006 (State v. Ajay Kumar Garg and others), as well as the summoning order dated 12.09.2006, u/s 498A of IPC, passed by learned Addl. Chief Judicial Magistrate, Haridwar. Taking recourse to Section 156(3) of Cr.P.C., informant/respondent No. 3 Sharawan Kumar lodged an FIR against four accused persons, including the applicants, in police station, Ranipur, Haridwar on 03.08.2006, for the offences punishable u/s 498A of IPC and u/s 3/4 of the Dowry Prohibition Act. After the investigation, a chargesheet was submitted against all the four accused persons in respect of selfsame offences. Cognizance was taken on the same and the accused persons were summoned to face the trial. Aggrieved against that order, present application u/s 482 of Cr.P.C. was moved.

2. Ruchi, daughter of informant/respondent No. 3 Sharawan Kumar, is the victim. Applicant No. 1 is father-in-law, applicant No. 2 is mother-in-law and applicant No. 3 is sister-in-law of the daughter of respondent No. 3.

3. A compounding application CRMA No. 942 of 2013 was filed jointly by the informant/respondent and-applicant No. 1 stating therein that a compromise has taken place between the parties. Affidavits of respondent No. 3 and applicant No. 1 have been filed alongwith the compounding application.

4. Respondent No. 3 is the informant whose daughter was alleged to be harassed on account of non-fulfillment of dowry. It is the victim whose statement is material. Informant/Respondent No. 3 Sharawan Kumar and applicant No. 1 Raj Kumar Garg are also present in person before this Court, duly identified by their respective counsel. Victim Ruchi is present in person before this Court, duly identified by Ms. Prabha Naithani, Advocate. The victim said that she is not willing to prosecute the accused-applicants. She also said that she has entered into compromise on her own volition. When the victim does not want to prosecute the accused-applicants, can she be permitted to compound the offences punishable u/s 498A of IPC and u/s 3/4 of the Dowry Prohibition Act?

5. Offence punishable u/s 498A of IPC is non-compoundable offence within the scheme of Section 320 of Cr.P.C. Offence punishable u/s 3/4 of the Dowry Prohibition Act is also not a compoundable offence.

6. We seek guidance from the Hon''ble Supreme Court in such situation. In Gian Singh Vs. State of Punjab and Another, Hon''ble Supreme 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 u/s 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 is therefore held that it will be in the interest of the family, society as well as in the interest of justice if the victim is permitted to compound the offences u/s 498A of IPC and u/s 3/4 of the Dowry Prohibition Act against the accused-applicants. Compounding application is therefore allowed. Victim is permitted to compound the offences complained of against the accused-applicants. In such view of the matter, the application/petition u/s 482 of Cr.P.C. is allowed. Chargesheet No. 205 of 2006, dated 02.09.2006, u/s 498A of IPC and Section 3A of the Dowry Prohibition Act, filed before learned Addl. Chief Judicial Magistrate, Haridwar, in criminal case No. 1530 of 2006 (State v. Ajay Kumar Garg and others), as well as the summoning order dated 12.09.2006, u/s 498A of IPC, passed by learned Addl. Chief Judicial Magistrate, Haridwar are hereby quashed qua the present applicants only.