
(2018) 08 UK CK 0020

In the Uttarakhand High Court

Case No : Compounding Application No.1515 of 2018 In C-482 No.1257 of 2018

Rajesh Singh Rana & Anr

APPELLANT

Vs

State of Uttarakhand & Ors

RESPONDENT

Date of Decision : 03-08-2018

Acts Referred:

Code of Criminal Procedure, 1973 — Section 320, 482
Indian Penal Code, 1860 — Section 406, 420, 504

Citation : (2018) 08 UK CK 0020

Hon'ble Judges : LOK PAL SINGH, J

Bench : Single Bench

Advocate : R.S. Sammal, V.K. Gemini, N.S. Kanyal, Sarita Bisht

Final Decision : Disposed Of

Judgement

LOK PAL SINGH, J.

1. By way of present application, moved under Section 482 of Cr.P.C., applicants seek to quash the charge sheet no.108 of 2018 dated 17.12.2015

22.05.2018 and the cognizance/summoning order dated 29.05.2018 passed by Additional Chief Judicial Magistrate, Khatima, District Udham Singh

Nagar as well as the entire proceedings of Criminal Case No.1687 of 2018 State vs. Basnati Devi & Others, relating to offences punishable under

Sectons 420, 504, 406 of IPC, pending in the court of Addl. Judicial Magistrate, on the basis of compromise arrived at between the parties.

2. A compounding application being CRMA No.1515 of 2018 has been filed on behalf of the parties with a prayer to compound the offences,

inasmuch as, the parties have buried their differences and have settled their dispute amicably and have entered into a compromise. Applicants and the

respondent nos.2 to 6 have filed their separate affidavits alongwith the

compounding application to affirm what is stated in the compounding application. Applicants are present in person before the Court duly identified by their counsel Mr. R.S. Sammal. Respondent nos.2 to 6 are also present in person before the Court duly identified by their counsel Mr. N.S. Kanyal and Ms. Sarita Bisht.

3. It may be noted here that the offences punishable under Section 420 and 406 of IPC are compoundable offences with the permission of the Court as provided under the scheme of Section 320 Cr.P.C., whereas Section 504 of IPC is simply a compoundable offence.

4. Learned counsel for the applicant placed reliance on the ruling of *Nikhil Merchant vs. C.B.I. and another*, 2008 AIR SCW 7501. Paragraph 24 of the said judgment is reproduced below for ready reference:-

24. On an overall view of the facts as indicated hereinabove and keeping in mind the decision of this Court in *B.S. Joshi's case* (2003) 4 SCC 675)

and the compromise arrived at between the Company and the Bank as also clause 11 of the consent terms filed in the suit filed by the Bank, we are

satisfied that this is a fit case where technicality should not be allowed to stand in the way in the quashing of the criminal proceedings, since, in our

view, the continuance of the same after the compromise arrived at between the parties would be a futile exercise.

5. Learned counsel for the applicant drew the attention of this Court towards the ruling of *Gian Singh vs. State of Punjab and another* (2013) 1 SCC

(Cri) 160 in which Hon'ble Supreme Court 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, Â 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.

6. Having gone through the aforesaid judgments of the Honâ??ble Supreme Court, this Court is satisfied that the instant case is squarely covered by the said rulings of the Hon'ble Supreme Court.

7. In view of the aforesaid, the respondent nos.2 to 6 are permitted to compound the offences.

8. Accordingly, compounding application is allowed. Impugned charge sheet no.108 of 2018 dated 22.05.2018 and the cognizance/summoning order

dated 29.05.2018 passed by Additional Chief Judicial Magistrate, Khatima, District Udham Singh Nagar as well as the entire proceedings of Criminal

Case No.1687 of 2018 State vs. Basanti Devi & Others, relating to offences punishable under Sections 420, 504, 406 of IPC, pending in the court of

Addl. Judicial Magistrate, are hereby quashed, qua the applicants, on the basis of compromise arrived at between the parties.

9. Present C482 application stands disposed of, as above.

10. Pending applications, if any, also stand disposed of accordingly.