
(2015) 02 UK CK 0013

In the Uttarakhand High Court

Case No : Criminal Writ Petition No. 117 of 2015

Raju Singh and Others

APPELLANT

Vs

State of Uttarakhand and Others

RESPONDENT

Date of Decision : 03-02-2015

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 320
Penal Code, 1860 (IPC) — Section 307, 308, 506

Citation : (2015) 89 ALLCC 599 : (2015) 1 NCC 249

Hon'ble Judges : Umesh Chandra Dhyani, J

Bench : Single Bench

Advocate : M.K. Ray, for the Appellant; H.S. Rawal, Learned AGA assisted by K.S. Rawal, Brief Holder, Advocates for the Respondent

Final Decision : Disposed off

Judgement

Umesh Chandra Dhyani, J.—The writ petitioners, by means of present Writ Petition, seek to quash the impugned FIR No. 534 of 2014, dated 03.11.2014, under Sections 308 and 506 of IPC, lodged by respondent No. 3 at Police Station Kashipur, District Udham Singh Nagar. A first information report was lodged by respondent No. 3 against the accused persons/writ petitioners for the offences punishable under Sections 308 and 506 of IPC. A compounding application being CRMA No. 1431 of 2015 has been filed by the parties, to indicate that they have buried their differences and have settled their disputes amicably. A joint compromise application is also filed by them along with affidavits of Raju Singh (petitioner No. 1), Charanjeet Singh (petitioner No. 2), and Sundar Singh (respondent No. 3). Surjeet Singh (injured) and Sundar Singh (complainant/father of the injured Surjeet Singh) are present in person before this Court, duly identified by their counsel Mr. D.K. Tyagi, Advocate. Petitioners, namely, Raju Singh (petitioner No. 1) is also present in person, duly identified by his counsel Mr. M.K. Ray, Advocate. Surjeet Singh(injured) says that he has no grievance left against the writ petitioners and he is not interested in prosecuting the petitioners, in as much as, the dispute has been settled amicably between the

parties with the intervention of some elderly persons of the society. In other words, Surjeet Singh (the person aggrieved) has exonerated the present petitioners.

2. Whereas the offence punishable under Section 506 of IPC is a compoundable offence within the Scheme of Section 320 of Cr.P.C., the offence under Section 308 of IPC is not. The question is- whether the respondent person aggrieved should be permitted to compound the offences under Sections 308 and 506 of IPC against the petitioners or not?

3. Perused the contents of the First information report.

4. Learned counsel for the petitioners drew the attention of this Court towards the ruling of Gian Singh Vs. State of Punjab and Another, (2012) 9 JT 457 : (2012) 9 JT 426 : (2012) 9 SCALE 257 : (2012) 10 SCC 303 , 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 said 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). Hon"ble Apex Court also permitted compounding of offence punishable under Section 307 IPC in the case of Dimpy Gujral vs. Union Territory though Administrator U.T. Chandigarh and others, [2013 (123) AIC 119 (S.C.)].

6. A reference may also be had to the decision of Narinder Singh and Others Vs. State of Punjab and Another, (2014) AIRSCW 2065 : (2014) CriLJ 2436 : (2014) 4 JT 573 : (2014) 4 SCALE 195 : (2014) 6 SCC 466 in this regard.

7. In view of the above, the impugned FIR No. 534 of 2014, dated 03.11.2014, under Sections 308 and 506 of IPC, lodged by respondent No. 3 at Police Station Kashipur, District Udham Singh Nagar, and the 5 criminal proceedings emanating therefrom, are hereby quashed qua the writ petitioners. Criminal Writ Petition No. 117 of 2014 is thus disposed of in terms of compromise arrived at between the parties. (IA No. 632 of 2015 also stands disposed of).