

(2014) 05 UK CK 0019

In the Uttarakhand High Court

Case No : Criminal Writ Petition No. 474 of 2014

Sanjay Sharma and Others

APPELLANT

Vs

State of Uttarakhand and Others

RESPONDENT

Date of Decision : 02-05-2014

Acts Referred:

Constitution of India, 1950 — Article 226
Criminal Procedure Code, 1973 (CrPC) — Section 320
Penal Code, 1860 (IPC) — Section 147, 148, 149, 323, 326

Citation : (2014) 05 UK CK 0019

Hon'ble Judges : Umesh Chandra Dhyani, J

Bench : Single Bench

Advocate : Pramod Tiwari, Advocate for the Appellant; P.S. Soan, Deputy Advocate General, Mr. V.S. Pal, AGA for State and Mr. Rajendra Singh, Advocate for Respondent No. 3, Advocate for the Respondent

Final Decision : Allowed

Judgement

Umesh Chandra Dhyani, J.—The petitioners, by means of present Criminal Writ Petition under Article 226 of the Constitution of India, seek to quash the impugned F.I.R. registered as case crime no. 30 of 2014 under Sections 147, 148, 149, 323, 326, 354-B, 504, 506 IPC, Police Station Kotwali Manglaur, District Haridwar.

2. A Compounding Application (CRMA No. 4443 of 2014) is filed before this Court to show that the parties have settled their disputes amicably. Injured/victims, namely, Nazneen (informant), Intezar, Qasim, Salman, Shanu and Raja, are present in person, duly identified by their counsel Mr. Pramod Tiwari. The petitioners are also present in person before this Court, duly identified by their counsel Mr. Rajendra Singh. Respondent no. 3 submitted that she does not wish to prosecute the petitioners, in as much as, a compromise has taken place between the petitioners and the injured/victims. She alongwith other injured/victims prayed that they may be permitted to compound the offences against the

petitioners and the criminal writ petition under Article 226 of the Constitution of India be allowed and the proceedings of the aforesaid case crime number be quashed.

3. Some of the offences complained of against the petitioners are compoundable within the scheme of Section 320 Cr.P.C. and some other offences against the petitioners are non-compoundable. The permission can be granted to the informant to compound the offences in view of the judgment of the Hon'ble Supreme Court in *Dimpey Gujral and Others Vs. Union Territory Through Administrator, U.T. Chandigarh and Others*, . The Hon'ble Supreme Court in *Gian Singh Vs. State of Punjab and Another*, has observed as follows:-

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 predominatingly 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.

4. Since the injured/victims have buried all their differences against the petitioners, therefore, they should be permitted to compound such offences against the petitioners in the interest of justice.

5. Compounding Application (CRMA No. 4443/2014) is allowed in the interest of justice. As a consequence thereof, criminal writ petition under Article 226 of the Constitution of India is allowed and the F.I.R. alongwith the proceedings of case crime No. 30 of 2014, under Sections 147, 148, 149, 323, 326, 354-B, 504 & 506 IPC, Police Station Kotwali Manglaur, District Haridwar, are hereby quashed.