
(2015) 02 UK CK 0018

In the Uttarakhand High Court

Case No : Criminal Misc. Application (C-482) No. 246 of 2015

Santokh Singh and Others

APPELLANT

Vs

State of Uttarakhand and Others

RESPONDENT

Date of Decision : 27-02-2015

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 320, 482
Penal Code, 1860 (IPC) — Section 307, 324, 452, 506

Citation : (2015) 1 NCC 596

Hon'ble Judges : Umesh Chandra Dhyani, J

Bench : Single Bench

Advocate : Vipul Sharma, for the Appellant; Masroor Ahmad Khan, Dy. Advocate General and H.S. Rawal, A.G.A., Advocates for the Respondent

Final Decision : Allowed

Judgement

Umesh Chandra Dhyani, J.—A charge-sheet has been filed against the applicants for the offences punishable under Sections 452, 324, 307, 506 of IPC. Compounding application, being CLMA No. 282 of 2015, has been filed by the parties to indicate that they have buried their differences and have settled their dispute amicably. Said application is supported by the affidavits of the applicants, namely, Santokh Singh, Harbhajan Singh and Jagtar Singh and injured-complainant Kulvinder Singh and injured Rajendra Singh.

2. Injured(s)-complainant are present in person before the Court, duly identified by their counsel Mr. J.S. Virk. Both of them stated that they are no more interested in prosecuting the applicants, in as much as the dispute between the parties has been resolved amicably. Injured(s)-complainant also stated that they may be permitted to compound the offences alleged against the applicants. Accused-applicants are also present in person before the Court, duly identified by their counsel Mr. Vipul Sharma, who also affirm what is stated by the injured(s)-complainant in the open Court.

3. Whereas some of the offences alleged against the accused-applicants are

compoundable offences within the scheme of Section 320 of Cr.P.C., the others are not.

4. The only question which is left for consideration of this Court is whether the complainant should be permitted to compound the offences alleged against the accused-applicants or not?

5. Hon"ble Supreme Court in the cases of Dimpey Gujral and Others Vs. Union Territory Through Administrator, U.T. Chandigarh and Others, AIR 2013 SC 518 : (2013) CriLJ 520 : (2012) 6 CTC 829 : (2012) 12 JT 80 : (2013) 1 RCR(Criminal) 745 : (2012) 11 SCALE 589 and 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 , has permitted compounding of such type of offences, which are otherwise non-compoundable, within the scheme of Section 320 of Cr.P.C.

6. It will also be useful to reproduce the law laid down by Hon"ble Apex Court in Gian Singh Vs. State of Punjab and Another, (2012) 9 JT 457 : (2012) 9 JT 426 : (2012) 9 SCALE 257 : (2012) 10 SCC 303 , wherein it was observed, in the context of such cases, as under:

"The position that emerges from the above discussion can be summarized thus: the power of the High Court in quashing a criminal proceeding or F.I.R. 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, because of the compromise

between the of fender 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. Since the injured(s)-complainant have settled the dispute amicably with the accused-applicants, therefore, they should be permitted to compound the offences complained against the accused-applicants in the interest of society as well as in the interest of justice. Compounding application is allowed. As a consequence thereof, application under Section 482 of Cr.P.C. is also allowed. Entire proceedings of Sessions Trial No. 147 of 2014, captioned as, State vs. Harbhajan Singh and others, under Sections 452, 324, 307, 506 IPC, pending in the court of III Addl. Sessions Judge, Rudrapur, District Udham Singh Nagar are hereby quashed on the basis of compromise arrived at between the parties.