

(2018) 04 RAJ CK 0182
In the Rajasthan High Court
Case No : Criminal Misc(Pet.) No. 788 of 2018

Shubham Beniwal @APPELLANT@Hash State of Rajasthan & Ors.

Date of Decision : 12-04-2018

Acts Referred:

Code of Criminal Procedure, 1973 — Section 482
Indian Penal Code, 1860 — Section 143, 307
Arms Act, 1959 — Section 27

Citation : (2018) 04 RAJ CK 0182

Hon'ble Judges : VIJAY BISHNOI, J

Bench : Single Bench

Advocate : D.S. Thind, V.S. Rajpurohit, Om Prakash

Final Decision : Disposed Off

Judgement

This criminal misc. petition under Section 482 Cr.P.C. has been filed on behalf of the petitioners with a prayer for quashing of FIR No.434/2017 dated

6.12.2017 of Police Station Purani Aabadi, Sri Ganganagar for the offences punishable under Sections 307, 143 IPC and Section 27 of the Arms Act

on the basis of compromise arrived at between the parties.

The impugned FIR has been lodged at the instance of respondent No.2 with the allegations that on 5.12.2017, at about 11.35 PM, the accused

petitioners came in a swift car at the Bishnoi hostel situated in Purani Aabadi, Sri Ganganagar and called him. It is stated by the respondent No.2 that

he was at the first floor of the hostel and after hearing noise, he went towards the window and saw that petitioner No.1 Subham Beniwal along with

other persons were standing on the road, thereafter, suddenly Subham Beniwal fired a gun shot on him, however, he hid himself towards the wall and

on account of that he saved his life. Thereafter, Subham Beniwal again fired two to three gun shots and when they confronted with them, all the

accused persons ran away from there.

Learned counsel for the petitioners has submitted that as a matter of fact, no such incident as alleged in the impugned FIR took place and due to some misunderstanding, the complainant has lodged the impugned FIR as there was some minor dispute between him and the petitioners.

Learned counsel for the petitioner has further submitted that with the intervention of the elders, the dispute has amicably been settled between the parties and the respondent No.2 does not want to press the charges levelled against the petitioners. Learned counsel for the respondent No.2 has also confirmed that the dispute between the petitioners and the respondent No.2 has already been settled.

It is noticed that though the allegations of firing are levelled against the petitioners, particularly, against petitioner No.1 Subham Beniwal in the impugned FIR, but no one has received any injury by gun shot. The petitioners and the respondent No.2 are the students and it appears that on account of some minor dispute between them, the impugned FIR has been lodged.

Learned counsel for the petitioners has urged that on account of pendency of the impugned FIR against the petitioners, their career will be ruined and therefore the impugned FIR may be quashed on the basis of the compromise arrived at between the parties.

It is also submitted by learned counsel for the petitioners that none of the petitioners has any criminal antecedent and all the petitioners are less than twenty years of age.

Learned counsel for the respondent No.2 has also submitted that looking to the future of the petitioners and in view of the fact that compromise has been arrived at between the parties, he does not want to pursue the case against them.

Learned Public Prosecutor has opposed the criminal misc. petition and argued that the police have found prima facie case against the petitioners proved.

Heard learned counsel for the parties.

The Hon'ble Apex Court while answering a reference in the case of Gian Singh Vs. State of Punjab & Anr. reported in JT 2012(9) SC 426, has held as below:-

57. 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.â??

It is true that the FIR has been lodged against the petitioners for the offence punishable under Section 307 IPC and Section 27 of the Arms Act,

however, no one has received any gun shot injury. The investigation is at the primary stage and the parties have already entered into compromise. The

age of the petitioners is less than twenty years and none of them is having any criminal antecedent.

Having considered the facts and circumstances of the case, particularly keeping in view the fact that since the compromise has been arrived at

between the parties, there is no possibility of petitioners being convicted in the case pending against them.

Keeping in view the observations made by the Hon'ble Supreme Court in Gian Singh's case (supra), this Court is of the opinion that it is a fit case,

wherein the criminal proceedings pending against the petitioners can be quashed while exercising powers under Section 482 Cr.P.C.

Accordingly, this criminal misc. petition is allowed and the FIR No.434/2017 dated 6.12.2017 lodged at the Police Station Purani Aabadi, Sri

Ganganagar for the offences punishable under Sections 307, 143 IPC and Section 27 of the Arms Act against the petitioners is hereby quashed.

Stay petition is also disposed of.