

(2014) 06 UK CK 0010

In the Uttarakhand High Court

Case No : Compromise Application No. 840 of 2014 in Criminal Misc. Application
No. 606 of 2014

Smita Sahay

APPELLANT

Vs

State of Uttarakhand

RESPONDENT

Date of Decision : 17-06-2014

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 320, 482
Penal Code, 1860 (IPC) — Section 406, 420, 468, 471

Citation : (2014) 2 NCC 220

Hon'ble Judges : Servesh Kumar Gupta, J

Bench : Single Bench

Advocate : M.K. Ray, Advocate for the Appellant; R.K. Shah, Dy. Advocate Gen.
and D.K. Tyagi, Advocate for the Respondent

Judgement

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Servesh Kumar Gupta, J.—Mr. M.K. Ray, Advocate for the petitioners. Mr. R.K. Shah, Deputy Advocate General (Criminal) for the State/respondent No. 1.

2. Mr. D.K. Tyagi, Advocate for respondent No. 2.

3. Informant Bhupendra Singh (now residing in Canada) has appeared before the Court to enter into compromise with the petitioners. The first information report was lodged by him almost 16 years back on 17.12.1998 while the occurrence is of 28.2.1997. The chargesheet was submitted against the petitioners in April, 2000. The Court has been apprised that since then, process to compel the appearance of the accused persons is ongoing in the Trial Court and they have not put their occurrence in obedience of that process. Now, the informant/complainant as well as the accused persons have come up before the Court seeking the quashing of the chargesheet which has been submitted against the accused persons for the offences of section 406, 420, 468 and 471 IPC.

4. The backdrop of the controversy between the parties is the cheating of Rs.

2.10 lakh, where-against a sum of Rs. 3.00 lakh has been received by the informant.

5. Learned counsel for the petitioners has relied upon a judgment delivered by the Full Bench of Hon''ble Apex Court in the case of Gian Singh Vs. State of Punjab and Another, . In that precedent, the Apex Court has highlighted the scope of Section 482 blended with Section 320 of the Cr.P.C. Relative scope, wherein the inherent powers of the High Court u/s. 482 Cr.P.C. to quash the criminal proceedings involving the non-compoundable offences in view of the compromise arrived at between the parties, has been highlighted therein. The Court has held that in every non-compoundable offence, the chargesheet cannot be quashed merely on the basis of compromise between the parties. The Court has to look into a number of factors including the social impact of the crime in question vis-a-vis its individual impact, as decisive criterion for exercise of quashment power in such cases. To exercise such powers by the High Court depends on circumstances of each case, and the High Court must have due regard to the nature and gravity of the crime and its societal impact. Many heinous and serious offences having mental depravity, murder, rape, dacoity etc, or under special statutes like Prevention of Corruption Act or offences committed by public servants while working in their capacity as public servants, cannot be quashed even though victim or victim's family and offender have settled the dispute because such offences are not private in nature and have a serious impact on society. But, at the same time, the criminal cases, having overwhelmingly and pre-dominantly civil flavor, stand on a different footing.

6. The controversy in the instant matter before the Court, as I find, is pre-dominantly civil in flavor. Thus, the compounding application is allowed. The compromise, arrived at between the parties, is hereby accepted. Consequentially, the entire proceedings of criminal case No. 191 of 2013. State v. Smt. Smita Sahay and others, under sections 406, 420, 468 and 471 IPC, pending before the Court below, are hereby quashed. The petition is disposed of in the above terms.