
(2013) 02 UK CK 0005

In the Uttarakhand High Court

Case No : Criminal Miscellaneous Application No. 118 of 2013

Smt. Rajni and Another

APPELLANT

Vs

State of Uttarakhand and Others

RESPONDENT

Date of Decision : 04-02-2013

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 320, 482
Penal Code, 1860 (IPC) — Section 316, 323, 452, 504, 506

Citation : (2013) 1 UC 463

Hon'ble Judges : Umesh Chandra Dhyani, J

Bench : Single Bench

Advocate : Pramod Tiwari, for the Appellant; H.O. Bhakuni, Brief Holder for the Respondent No. 1/State and Mr. Rajendra Singh, Advocate for the Respondent Nos. 2 to 5, for the Respondent

Judgement

Umesh Chandra Dhyani, J.—Heard learned counsel for the petitioners, learned counsel for the respondent State and learned counsel for the respondent complainant and perused the record. By means of this petition, moved u/s 482 of Cr.P.C., the petitioners have sought quashing of the proceedings of Criminal Case No. 576 of 2012 State vs. Rajdhan and another under Sections 323, 504, 506 and 316 IPC, PS Kotwali Laksar, District Haridwar pending in the Court of Additional Chief Judicial Magistrate, Laksar, District Haridwar.

2. One Jaipal set the criminal law into motion against Rajdhan, Rajni and one unknown person as regards the offences punishable under Sections 452, 323, 316, 504 and 506 IPC in PS Kotwali Laksar on 14.07.2012. The complaint was registered as case crime No. 117 of 2012. After the investigation, charge-sheet was submitted against present applicants, namely, Rajni and Rajdhan for the offences punishable under Sections 323, 316, 504 and 506 IPC.

3. Learned counsel for the parties state that parties to the litigation have entered into compromise, A Compounding Application No. 102 of 2013 has been filed jointly by the informant Jaipal alongwith injured people Smt. Babli, Smt. Sonia

and Smt. Kavita supported by an affidavit. Informant Jaipal, Smt. Babli, Smt. Sonia, Smt. Kavita, Rajni and Rajdhan are present before the Court in person. They have been duly identified by their respective learned counsel. The injured as well as the informant submitted that they have entered into compromise on their own volition and they do not want to prosecute the accused persons Smt. Rajni and Rajdhan any further. They belong to the same family. All other differences between them have been buried. There were other civil and criminal cases also pending against them and they have entered into compromise in all such cases.

4. Learned counsel for the petitioners placed reliance on the ruling of Nikhil Merchant Vs. Central Bureau of Investigation and Another, Paragraph 24 of the said judgment is reproduced below for ready reference:

24. On an overall view of the facts as indicated hereinabove and keeping in mind the decision of this Court in B.S. Joshi and Others Vs. State of Haryana and Another, and the compromise arrived at between the parties, I am satisfied that this is a fit case where technicality should not be allowed to stand in the way in the quashing of the criminal proceedings, since, in our view, the continuance of the same after the compromise arrived at between the parties would be a futile exercise.

5. Learned counsel for the petitioners drew the attention of this Court towards the ruling of Gian Singh Vs. State of Punjab and Another, 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 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 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. can not 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.

6. The instant case is squarely covered by the said ruling of the Hon''ble Supreme Court. It is also pertinent to note that the offence punishable under Sections 323, 504, 506 IPC are compoundable offences, which find place in the list contained u/s 320 Cr.P.C. The only thing which required consideration is whether the injured and the affected lady should be permitted to compound the offence punishable u/s 316 IPC or not and the obvious reply is in the affirmative in view of the rulings of Hon''ble Apex Court in Nikhil Merchant Vs. Central Bureau of Investigation and Another, , B.S. Joshi and Others Vs. State of Haryana and Another, and Gian Singh Vs. State of Punjab and Another, .

7. Accordingly, the petition u/s 482 of Cr.P.C. is allowed. The proceedings of Criminal Case No. 576 of 2012 State v. Rajdhan and another under Sections 323, 504, 506 and 316 IPC, PS Kotwali Laksar, District Haridwar, pending in the Court of Additional Chief Judicial Magistrate. Laksar, District-Haridwar are hereby quashed. Compounding Application No. 103 of 2013 as well as Urgency Application No. 637 of 2013 both stand disposed of.