

(2018) 08 RAJ CK 0093

In the Rajasthan High Court

Case No : Criminal Misc(Pet.) No. 1633 of 2018

Smt. Shashi Lata Sharma @APPELLANT@Hash State of Rajasthan & Ors.

Date of Decision : 16-08-2018

Acts Referred:

Code of Criminal Procedure, 1973 — Section 482
Indian Penal Code, 1860 — Section 406, 420

Citation : (2018) 08 RAJ CK 0093

Hon'ble Judges : VIJAY BISHNOI, J

Bench : Single Bench

Advocate : Pradeep Shah, V.S. Rajpurohit, Naresh Khatri

Final Decision : Allowed

Judgement

This criminal misc. petition under Section 482 Cr.P.C. has been filed by the petitioner with a prayer for quashing the criminal proceedings arising out

of FIR No.148/2013 of Police Station Chhoti Sadri, District Pratapgarh for the offences punishable under Sections 406 and 420 IPC qua him on the

basis of compromise arrived at between the petitioner and the respondent No.2.

This Court on 19.07.2018 after taking into consideration the fact that one of the accused person namely Chiman Lal Sharma, against whom charge

sheet was earlier filed, was acquitted by the Additional Chief Judicial Magistrate, Chhoti Sadri, District Pratapgarh vide judgment dated 07.04.2016

and the compromise arrived at between the petitioner and the respondent No.2, has directed the petitioner to remain present before the Investigating

Officer for the purpose of verifying the factum of compromise.

Learned Public Prosecutor has submitted the factual report, wherein it is mentioned that the compromise arrived at between the parties has been

verified by the Investigating Officer. The factual report dated 13.08.2018 be taken on record.

Today, learned counsel for the respondent No.2 has categorically stated that respondent No.2 does not want to continue the investigation into the impugned FIR against the petitioner as the matter has been compromised between them.

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 noticed that the compromise has been arrived at between the parties and one of the accused person Chiman Lal, who is the husband of the

petitioner, has already been acquitted by the trial court, thus even if the petitioner is put to trial, she may also be acquitted as the respondent No.2-

complainant is not supporting the prosecution story.

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 petitioner can be quashed while exercising powers under Section 482 Cr.P.C.

Accordingly, this criminal misc. petition is allowed and the criminal proceedings arising out of FIR No. 148/2013 of Police Station Chhoti Sadrii,

District Pratapgarh for the offences punishable under Sections 406 and 420 IPC qua the petitioner are hereby quashed.

Stay petition is disposed of.