
(2014) 09 UK CK 0034
In the Uttarakhand High Court
Case No : Criminal Revision No. 140 of 2011

Sompal	Vs	APPELLANT
State of Uttarakhand		RESPONDENT

Date of Decision : 19-09-2014

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 320, 482
Dowry Prohibition Act, 1961 — Section 3, 4
Penal Code, 1860 (IPC) — Section 323, 498A, 498-A

Citation : (2014) 09 UK CK 0034

Hon'ble Judges : Umesh Chandra Dhyani, J

Bench : Single Bench

Advocate : Manish Arora and Mohd. Alauddin, Advocate for the Appellant;
Raman Kumar Sah, Deputy Advocate General, Advocate for the Respondent

Final Decision : Allowed

Judgement

Umesh Chandra Dhyani, J.—The accused-revisionists were convicted u/s 498A, 323 IPC and Section 3/4 Dowry Prohibition Act and were sentenced appropriately, vide judgment and order dated 03.10.2007 passed by Judicial Magistrate-I, Roorkee, District Haridwar in criminal case no. 1978/2006. Aggrieved against the conviction and sentence, a criminal appeal was filed by the convicts before the Addl. Sessions Judge, Haridwar, wherein the criminal appeal in respect of the present revisionists was dismissed, vide judgment and order dated 20.05.2011 passed by the Addl. Sessions Judge/2nd F.T.C., Haridwar.

2. Still aggrieved against the same, present criminal revision is filed before this Court.

3. A Compounding Application (CRMA No. 1448 of 2014) is filed before this Court to show that the parties have settled their disputes amicably. The compounding application is supported by affidavits of Sompal (revisionist no. 1 herein), Vijay Pal Singh (complainant) and Smt. Poonam (victim). Victim-Smt. Poonam is present in person, duly identified by her counsel Mr. Mohd. Alauddin. Sompal

(revisionist no. 1) is also present in person before this Court, duly identified by his counsel Mr. Manish Arora. The victim stated before this Court that she does not wish to prosecute the revisionists, in as much as, a compromise has taken place between them and, moreover, she is living peacefully with her husband-Sompal for the last 3 years. She prayed that she may be permitted to compound the proved offences against the revisionists and the criminal revision be allowed.

4. Offences u/s 498-A IPC and Section 3/4 Dowry Prohibition Act are non-compoundable within the scheme of Section 320 Cr.P.C., while the offence u/s 323 IPC is compoundable offence. The question is - whether the victim should be permitted to compound such proved offences against the convicts or not?

5. The Apex Court has dealt with the consequence of a compromise in regard to non-compoundable offences in the case of B.S. Joshi and Others Vs. State of Haryana and Another, and has held as below:

"If for the purpose of securing the ends of justice, quashing of FIR becomes necessary, Section 320 Cr.P.C. would not be a bar to the exercise of power of quashing. It is, however, a different matter depending upon the facts and circumstances of each case whether to exercise or not such a power."

6. Thus, the High Court, in exercise of its inherent power, can quash criminal proceedings or FIR or complaint and Section 320 of Cr.P.C. does not limit or affect the powers u/s 482 of the Code of Criminal Procedure, 1973.

7. Learned counsel for the parties drew attention of this Court towards the decisions of Hon"ble Supreme Court in Narinder Singh and Others Vs. State of Punjab and Another, and Manohar Singh vs. State of M.P. and another decided on 21.07.2014 in Criminal Appeal No. 1498 of 2014. Manohar Singh's case (supra) covers the case u/s 498-A IPC and Section 3/4 of the Dowry Prohibition Act.

8. Reliance was also placed upon the pronouncement of the Hon"ble Apex Court in Gian Singh Vs. State of Punjab and Another, wherein Hon"ble Apex Court has observed as below:

"The position that emerges from the above discussion can be summarized 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 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 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 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."

9. It will be useful to reproduce herein Sub-Section (5) of Section 320 Cr.P.C. as follows:

"320 (5)- When the accused has been committed for trial or when he has been convicted and an appeal is pending, no composition for the offence shall be allowed without the leave of the Court to which he is committed, or, as the case may be, before which the appeal is to be heard."

10. Since the criminal revision is pending before this Court against the conviction of the accused-revisionists, therefore, the victim is seeking leave of this Court to permit her to compound the offences, for which the accused-revisionists have been convicted. Sub-Section (5) of Section 320 Cr.P.C. is meant for those offences, which are compoundable offences within the Scheme of Section 320 Cr.P.C.

11. Since the victim has buried all her differences against the revisionists, therefore, she should be permitted to compound the non-compoundable offences proved against the revisionists by this Court in exercise of its inherent jurisdiction, as per the guidelines provided by Hon''ble Apex Court in order to maintain peace in their family and to secure the ends of justice.

12. Compounding Application is allowed in the interest of justice. As a

consequence thereof, the Criminal Revision is allowed. The impugned judgments and orders are set-aside. The conviction and sentence awarded to the revisionists are also set aside.

13. Let the Lower Court Record be sent back to the court concerned.