

(2020) 01 RAJ CK 0004

In the Rajasthan High Court

Case No : Criminal Miscellaneous (Petition) No. 211 Of 2020

Subhash

APPELLANT

Vs

State And Ors

RESPONDENT

Date of Decision : 15-01-2020

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 320, 482
Indian Penal Code, 1860 — Section 406, 498A

Citation : (2020) 01 RAJ CK 0004

Hon'ble Judges : Vijay Bishnoi, J

Bench : Single Bench

Advocate : Ajay Kumar, S.S. Rajpurhit

Final Decision : Dismissed

Judgement

This criminal misc. petition under Section 482 Cr.P.C. has been preferred by the petitioner with the prayer for quashing the proceedings pending against the petitioner before the learned Additional Chief Judicial Magistrate, Pipar City, District Jodhpur (hereinafter referred to as 'the trial court'), State vs. Subhash in Criminal Regular Case No.1577/2018, whereby the trial court vide order dated 16.12.2019 has attested the compromise for the offences punishable under Section 406 IPC but refused to attest the compromise for the offence punishable under Sections 498-A IPC as the same is not compoundable.

Brief facts of the case are that on a complaint lodged at the instance of respondent No.2, the Police Station Pipar City, Jodhpur registered an FIR No.242/2017 against the petitioner. After investigation, the police filed charge sheet against the petitioner for the offences punishable under Sections 498-A and 406 of IPC in the Additional Chief Judicial Magistrate Pipar City, District Jodhpur, wherein the trial is pending against the petitioner for the aforesaid offence. During the pendency of the trial, an application was preferred on behalf of the petitioner as well as the respondent No.2 while stating that both the parties have entered into compromise and, therefore, the proceedings pending

against the petitioner may be terminated.

The learned trial court vide order dated 16.12.2019 has allowed the parties to compound the offence under Section 406 IPC however, rejected the application so far as it relates to compounding the offences punishable under Section 498-A IPC.

The present criminal misc. petition has been preferred by the petitioner for quashing the said proceedings against him.

Learned counsel for the petitioner has argued that as the complainant-respondent No.2 and the petitioner have already entered into compromise and on the basis of it, the petitioner has been acquitted for the offence punishable under Section 406 of IPC, there is no possibility of conviction of the petitioner for the offence punishable under Sections 498-A of IPC.

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."

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 criminal proceedings pending against the petitioner before the learned Additional Chief Judicial Magistrate, Pipar City, District Jodhpur in Criminal Regular Case No.-1577/2018 (State vs. Subhash) are hereby quashed.