
(2013) 04 MEG CK 0007

In the Meghalaya High Court

Case No : Criminal Petition (SH) No. 16 of 2013

Sumeet Paul and Another

APPELLANT

Vs

State of Meghalaya and Others

RESPONDENT

Date of Decision : 03-04-2013

Acts Referred:

Citation : (2013) 04 MEG CK 0007

Hon'ble Judges : S.R. Sen, J

Bench : Single Bench

Advocate : Keshav CH Gautam, Kishor CH Gautam, D. Gangte, W.M. Sangma and Ms. S.R. Marak, for the Appellant; S. Sengupta, Addl. PP., for the Respondent

Final Decision : Allowed

Judgement

S.R. Sen, J.—Heard learned counsel for the petitioner Mr. K.C. Gautam, who submits that initially an FIR was lodged by respondent No. 3, the wife of the petitioner No. 1. The learned counsel further contends that respondent No. 3 and the petitioner No. 1 are the husband and wife and they had some family disputes which has resulted in the FIR dated 17-9-2011. On the basis of the FIR, the police registered a case u/s 498-A /494 /506 IPC read with Section 3 /4 of the Dowry Prohibition Act. Subsequently the matter was charge-sheeted before the Judicial Magistrate and the case is pending as on today. In the meantime, respondent No. 3, the wife gave birth to a child and came to a settlement with the petitioner No. 1 and further the respondent No. 3 did not intend to proceed with the case. The learned counsel also pointed out that the statement of the respondent No. 3 was recorded which is at Annexure-IV of this petition as well as order passed by the Judicial Magistrate, East Khasi Hills, Shillong at Annexure-V. The learned counsel pointed out that since the matter is purely a family dispute and since both the parties have settled the matter amicably. Therefore, there is no point to drag the case further and if the proceeding is not quashed, the matrimonial life between the parties may deteriorate beyond repair.

2. Also heard Mr. S. Sengupta, the learned Addl. PP who submits that the Court

may pass necessary order as deem fit and proper.

3. I have perused the statement of the respondent No. 3 which is at Annexure-IV (Page-18) of the petition which is reproduced below:

My name is Julie Majumder w/o Sumeet Paul, I am about 22 years old and I reside in Nongmynsong with my parents. My mother's name is Jamuna Majumder and my father's name is Pradeep Majumder. I am a housewife. I lodged an FIR sometime in the month of September 2011 against my husband Sumeet Paul and my mother-in-law Rekha Paul due to demand of money and torture meted out to me and also for my husband pursuing an extra-marital affair with another woman. I want to compound this case for the sake of my child. My parents are poor and will not be able to sustain me and my child. I want to stay together as a family with my husband. I want to compound this case of my own accord. No one has threatened me or induced me in any manner to compound this case. I have spoken to my husband and he has assured me that he will not indulge in an extra-marital affair anymore and will not abuse me physically and mentally anymore. I want to provide a family for my new born child. My child was born on 8th November 2011. I have forgiven my husband, my mother-in-law and Neelam Marak. I have never met the woman Neelam Marak. I had only heard about her from my mother who found out about the same. I want to start my family life with my husband and my child. If the case is not allowed to be compounded then it will cause me greater harm as I am unemployed and a mere housewife. My parents are poor and cannot sustain me and my child. I want to compound this case so as to provide security for my child.

4. On perusal of the statement as quoted above, it is clear and apparent to me that the matter has been settled between the respondent No. 3 and the petitioner No. 1 and the respondent No. 3 is no more interested with the criminal proceeding under GR (A) Case No. 87 of 2012 pending in the Court of Judicial Magistrate, East Khasi Hills, Shillong. I have also perused the order passed by the learned Judicial Magistrate, East Khasi Hills, Shillong dated 23-4-2012. On perusal of the said order, it appears that the learned Judicial Magistrate, East Khasi Hills, Shillong has rejected the settlement prayer and to close the proceeding on the ground that sections are non-bailable and non-compoundable.

5. After hearing the submission advanced by the learned counsel for the petitioner as referred to above and having going through the records before me, I am of the considered view that the matter is purely a family dispute between husband and wife. When both the husband and wife have reconciled their differences as per statement referred to above duly recorded by the learned Judicial Magistrate, East Khasi Hills, Shillong, I feel it is a fit case where the proceeding needs to be quashed for the ends of justice and to protect the matrimonial home. Section 482 Cr.P.C. wide power has been given to the High Court to apply it for the ends of justice and to prevent abuse of the process of law. Section 482 Cr.P.C. is quite different from the provision u/s 320 Cr.P.C.

6. The Hon"ble Supreme Court in the case of

Gian Singh v. The State of Punjab and another, reported in (2012) 10 SCC 303 (AIR 2012 SC (Cri) 1796)

observed as follows:

61. 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 a 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 accordance 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 FIR may be exercised where the offender and the 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 a serious impact on society. Similarly, any compromise between the victim and the offender in relation to the offences under special Statutes like the 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 predominatingly civil flavour stand on a 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, the High Court may quash the criminal proceedings if in its view, because of the compromise between the offender and the victim, the possibility of conviction is remote and bleak and continuation of the criminal case would put the 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 the wrongdoer and whether to secure the ends of justice, it is appropriate that the criminal case is put to an end and if the answer to the above question(s) is in the affirmative, the High Court shall be well within its jurisdiction to quash the criminal proceeding.

7. Therefore, after considering the submission advanced by the learned counsel

to the facts and circumstances of the case and judgment given by the Apex Court as referred to above, I am of the further opinion that if the proceeding is quashed, it will help the parties to live a smooth and better matrimonial life, so, the GR(A) Case No. 87 of 2012 needs to be quashed. Accordingly, proceeding is quashed

8. Petition is allowed and stands disposed of.

9. No order as to costs. Registry is directed to send back down the Lower Court Case Record to the concerned Court immediately with a copy of this judgment order.