
(2014) 12 UK CK 0032

In the Uttarakhand High Court

Case No : Criminal Misc. Application No. 1684 of 2014

Tahir and Others

APPELLANT

Vs

State of Uttarakhand and Others

RESPONDENT

Date of Decision : 24-12-2014

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 320, 482
Penal Code, 1860 (IPC) — Section 323, 354, 452, 504, 506

Citation : (2014) 12 UK CK 0032

Hon'ble Judges : Umesh Chandra Dhyani, J

Bench : Single Bench

Advocate : Manish Arora, Advocates for the Appellant; H.O. Bhakuni, AGA, Advocates for the Respondent

Judgement

Umesh Chandra Dhyani, J.—A Criminal complaint case was filed by Akhlakh Ahmad, against six accused persons, who were summoned to face the trial for the offences punishable Under Sections 323,354,452, 504 and 506 I.P.C.

2. A compounding application No. 2065/2014 has been filed by the parties to indicate that they have buried their differences and have settled their disputes amicably. The compounding application is supported by affidavits of Tahir (applicant No. 1) and Akhlakh (victim).

3. Complainant and injured Akhlakh Ahmad duly identified by their counsel Mr. Alauddin, are also present before this Court along with their real sister, who is also the victim in this case. All of them stated that they are no more interested in prosecuting the applicants and they have compounded the offences alleged against the accused applicants, in as much as, their dispute is resolved amicably with the intervention of some elderly persons of the society.. Accused persons, namely, Tahir, Meharban Ali, Anwar Abdul, and Islam are also present in person, duly identified by their counsel by Mr. Manish Arora, who also affirm what was stated by the complainant/ injured in the Court today.

4. The offences punishable under section 354 and 506 IPC are compoundable offences, with the permission of the court, at the instance of the victim within the scheme of section 320 Cr.P.C.

5. The question, which arises for consideration of this Court is-whether the respondent no.2/victims should be permitted to compound the offences alleged against the accused-applicants or not?

6. Learned counsel for the applicants 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 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 under section 320 of the Code, Inherent power is of wide plentitude with no statutory limitation but it has to be exercised in accordance with the guidelines 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 predominatingly 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 its jurisdiction to quash the criminal proceeding."

7. A reference may also be had to the decision of Narendra Singh and others vs. State of Punjab and another, reported in (2014) SCC 466 in this regard.

8. The reply to the question, posed by this court in para no. 5 of this judgment therefore, is in the affirmative. Otherwise also, it will be a futile exercise if proceedings of the criminal complaint case against the applicants are kept pending when the parties have settled their disputes amicably.

9. Permission to compound the offences alleged against the applicants is granted. As a consequence thereof, summoning order dated 08.09.2014, as also the proceedings of criminal complaint case no. 657 of 2014, under sections 323, 354, 452, 504 and 506 IPC pending against the applicants in the Court of Additional Chief Judicial Magistrate, Laksar, district Haridwar, are hereby quashed on the basis of compromise entered into between the parties.

10. Application under section 482 Cr.P.C is thus disposed of in terms of compromise arrived between the parties.