
(2018) 05 RAJ CK 0141
In the Rajasthan High Court
Case No : Criminal Misc(Pet.) No. 767 of 2018

Vasudev @APPELLANT@Hash State of Rajasthan & Ors.

Date of Decision : 15-05-2018

Acts Referred:

Code of Criminal Procedure, 1973 — Section 482
Indian Penal Code, 1860 — Section 120B, 308, 327, 340, 384, 420, 500, 503, 505
Hindu Marriage Act, 1955 — Section 13B

Citation : (2018) 05 RAJ CK 0141

Hon'ble Judges : VIJAY BISHNOI, J

Bench : Single Bench

Advocate : Bharat Bhushan Charan, Kailash Jangid, Harish Jangid, Vikram Rajpurohit, Sushil Bishnoi

Final Decision : Allowed

Judgement

This criminal misc. petition under section 482 CrPC was dismissed by this Court vide order dated 06.04.2018, however, the said order has been

recalled today by this Court vide separate order passed in S.B.Cr.Misc. Application No.1557/2018 (Vasudev & Ors. vs. State of Rajasthan & Anr.).

This Criminal Misc. Petition under Section 482 CrPC has been filed by the petitioners with a prayer for quashing of FIR No.41/2014 lodged at Police

Station, Karwar, District Jodhpur for the offences punishable under sections 340, 308, 327, 384, 420, 500, 503, 505 and 120-B IPC.

Learned counsel for the petitioners has submitted that marriage of petitioner No.25, Santosh with respondent No.2 Prithvi alias Bhanwarlal was

solemnized, however, due to some disputes between them, the impugned FIR was lodged against the petitioners.

It is also submitted by learned counsel for the petitioners that earlier the parties entered into compromise and on the basis of the said compromise,

S.B.Cr.Misc. Petition No.821/2017 with a prayer for quashing of the impugned

FIR was preferred before this Court, which was disposed by a Co-ordinate Bench of this Court vide order dated 27.03.2017 with a direction to the parties to remain present before the Investigating Officer, who shall consider the compromise and then complete the investigation.

It is further submitted by learned counsel for the petitioners that pursuant to the direction given by this Court vide order dated 27.03.2017, the parties

appeared before the Investigating Officer and submitted compromise, however, the petitioner No.25 did not honour the terms of the compromise and

was not interested in disposal of the application preferred on behalf of Prithvi @ Bhanwarlal under section 13-B of the Hindu Marriage Act, 1955

before the family court, therefore, the respondent NO.2 denied to settle the dispute.

The learned counsel for the petitioners has submitted that since now the family court, on the basis of statement of petitioner No.25, has passed the

decree of divorce by mutual consent, therefore, the impugned FIR may kindly be quashed.

Learned counsel for the respondent No.2 has conceded that the parties have settled their dispute by mutual consent and the family court has also

passed the decree of divorce.

Heard learned counsel for the parties.

It is admitted that the dispute between the parties have already been settled and the family court has passed the decree of divorce by mutual

consent.Â Today also, learned counsel for the respondent No.2 does not want to continue the proceedings against the petitioners as the dispute has

already been resolved between the parties.

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 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, the High Court shall be well within its jurisdiction to quash the criminal proceeding.

Having considered the facts and circumstances of the case and looking to the fact that the dispute between the parties has already been settled by mutual consent and on the basis of which the family court has passed the decree of divorce, it is a fit case wherein the FIR can be quashed while exercising powers under section 482 CrPC.

In view of the law laid down by the Hon'ble Supreme Court in Gian Singh's case (supra) and in the facts and circumstances as noted above, this criminal misc. petition is allowed and the FIR No.41/2014 lodged at Police Station, Karwar, District Jodhpur is hereby quashed.