

(2022) 12 SHI CK 0088
In the High Court Of Himachal Pradesh
Case No : CR.MMO No. 1134 Of 2022

Vikash Hooda

APPELLANT

Vs

State Of Himachal Pradesh And Others

RESPONDENT

Date of Decision : 29-12-2022

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 320, 482

Citation : (2022) 12 SHI CK 0088

Hon'ble Judges : Sandeep Sharma, J

Bench : Single Bench

Advocate : Ajeet Singh Saklani, Narinder Guleria, Sunny Datwalia, Sangam Thakur

Final Decision : Disposed Of

Judgement

Sandeep Sharma, J

1. By way of instant petition filed under S.482 CrPC, prayer has been made on behalf of the petitioner-accused (hereinafter, accused) for quashing of FIR No.53, dated 19.4.2019, registered at Police Station Shahpur, District Kangra, under Ss.279, 337 and 338 IPC and consequent proceedings i.e. case titled State v. Vikash Hooda pending before Judicial Magistrate First Class, Court No.2, Dharamshala on the basis of compromise arrived inter se parties.

2. Precisely, the facts of the case, as emerge from the record, are that the FIR sought to be quashed in the instant proceedings came to be lodged at the behest of respondent No.2 Shyam Lata/complainant, who alleged that on 19.4.2019, while she alongwith her sister-in-law (Jethani), Mamta Devi was going to Shiv Mandir, 42 mile for Bhandara, at 1.00 pm, a truck bearing registration No. HP-39E-3107 being driven by petitioner came in high speed and hit her sister-in-law, as a result of which she suffered multiple injuries. Though on the basis of aforesaid statement of the complainant, police lodged the FIR and presented Challan in the competent court of law, after completion of investigation, but

before the same could be taken to its logical end, parties have entered into compromise thereby resolving dispute inter se them amicably. In the aforesaid background, petitioner has approached this court in the instant proceedings, praying therein for his acquittal after quashing of FIR alongwith consequential proceedings.

3. Vide order dated 27.12.2022, this court, while directing respondent-State to verify the factum with regard to compromise arrived inter se parties, also deemed it necessary to cause presence of the parties, especially, respondent No.2 at whose FIR sought to be quashed in the instant proceedings, came to be lodged, so that correctness and genuineness of compromise could be ascertained.

4. Though instructions of respondent-State are awaited, but respondent/complainant Shyam Lata and injured Mamta Devi respondents Nos. 2 and 3 came present before this court on 26.12.2022 and got their statements recorded. Above named persons, who are duly represented by Mr. Sangam Thakur, Advocate stated that they of their own volition and without any external pressure arrived at compromise with the petitioner and resolved to settle the dispute inter se them amicably. They stated that on 19.4.2019, accident did not occur due to fault of petitioner rather due to unavoidable circumstances. They stated that conduct of petitioner after accident was appreciable as he looked after the injured and as such, they do not wish to prosecute case further. Both these respondents, while admitting contents of the compromise to be correct, also admitted their signatures thereupon. Their statements recorded on 5.12.2022 are already on record.

5. After having perused the statements of respondent Nos. 2 and 3, Mr. Bhatnagar, learned Additional Advocate General states that though the petitioner committed a serious offence, but since the matter stands compromised inter se parties, chances of conviction of petitioner are bleak and remote, as such, State shall have no objection in case prayer of the petitioner for quashing of FIR is accepted and petitioner is acquitted of the charges framed against him.

6. The question which now needs consideration is whether FIR in question can be ordered to be quashed when Hon'ble Apex Court in *Narinder Singh and others versus State of Punjab* and another (2014)6 SCC 466 has specifically held that power under S. 482 CrPC is not to be exercised in the cases which involve heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. Such offences are not private in nature and have a serious impact on society.

7. At this stage, it would be relevant to take note of the judgment passed by Hon'ble Apex Court in *Narinder Singh* (supra), whereby the Hon'ble Apex Court has formulated guidelines for accepting the settlement and quashing the proceedings or refusing to accept the settlement with direction to continue with the criminal proceedings. Perusal of judgment referred to above clearly depicts that in para 29.1, Hon'ble Apex Court has returned the findings that power

conferred under Section 482 of the Code is to be distinguished from the power which lies in the Court to compound the offences under Section 320 of the Code. No doubt, under Section 482 of the Code, the High Court has inherent power to quash criminal proceedings even in those cases which are not compoundable and where the parties have settled the matter between themselves, however, this power is to be exercised sparingly and with great caution. In para Nos. 29 to 29.7 of the judgment Hon'ble Apex Court has laid down certain parameters to be followed, while compounding offences.

8. Careful perusal of para 29.3 of the judgment suggests that such a power is not to be exercised in the cases which involve heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. Such offences are not private in nature and have a serious impact on society. Apart from this, offences committed under special statute like the Prevention of Corruption Act or the offences committed by Public Servants while working in that capacity are not to be quashed merely on the basis of compromise between the victim and the offender. On the other hand, those criminal cases having overwhelmingly and predominantly civil character, particularly arising out of commercial transactions or arising out of matrimonial relationship or family disputes may be quashed when the parties have resolved their entire disputes among themselves.

9. The Hon'ble Apex Court in case *Gian Singh v. State of Punjab and anr.* (2012) 10 SCC 303 has held that power of the High Court in quashing of the criminal proceedings or FIR or complaint in exercise of its inherent power is distinct and different from the power of a Criminal Court for compounding offences under Section 320 Cr.PC. Even in the judgment passed in *Narinder Singh's* case, the Hon'ble Apex Court has held that while exercising inherent power of quashment under Section 482 Cr.PC the Court must have due regard to the nature and gravity of the crime and its social impact and it cautioned the Courts not to exercise the power for quashing proceedings in heinous and serious offences of mental depravity, murder, rape, dacoity etc. However subsequently, the Hon'ble Apex Court in *Dimpey Gujral and Ors. vs. Union Territory through Administrator, UT, Chandigarh and Ors.* (2013) 11 SCC 497 has further reiterated that continuation of criminal proceedings would tantamount to abuse of process of law because the alleged offences are not heinous offences showing extreme depravity nor are they against the society. Hon'ble Apex Court further observed that when offences of a personal nature, burying them would bring about peace and amity between the two sides.

10. Hon'ble Apex Court in its judgment dated 4th October, 2017, titled as *Parbatbhai Aahir @ Parbatbhai Bhimsinhbhai Karmur and others versus State of Gujarat and Another*, passed in Criminal Appeal No.1723 of 2017 arising out of SLP(Crl) No.9549 of 2016, reiterated the principles/ parameters laid down in *Narinder Singh's* case supra for accepting the settlement and quashing the proceedings.

11. Careful perusal of para 29.3 of the judgment suggests that such a power is

not to be exercised in the cases which involve heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. Such offences are not private in nature and have a serious impact on society. Apart from this, offences committed under special statute like the Prevention of Corruption Act or the offences committed by Public Servants while working in that capacity are not to be quashed merely on the basis of compromise between the victim and the offender. On the other hand, those criminal cases having overwhelmingly and predominantly civil character, particularly arising out of commercial transactions or arising out of matrimonial relationship or family disputes may be quashed when the parties have resolved their entire disputes among themselves.

12. In the case at hand, the offences alleged to have been committed by the accused do not pertain to offence of moral turpitude or heinous offences rather the offence alleged to have been committed is a petty offence and more over compromise has been arrived at inter se parties, as such, no fruitful purpose would be served in continuing with criminal prosecution of the petitioner, more so when the complainant has compromised the matter with the accused and she is also no more interested in pursuing the case further. Otherwise also, there are bleak and remote chances of conviction of accused and as such, this court sees no impediment in accepting the prayer made by petitioners for quashing of FIR.

13. Consequently, in view of the aforesaid discussion as well as law laid down by the Hon'ble Apex Court (supra), FIR No.53, dated 19.4.2019, registered at Police Station Shahpur, District Kangra, under Ss.279, 337 and 338 IPC and consequent proceedings i.e. case titled State v. Vikash Hooda pending before Judicial Magistrate First Class, Court No.2, Dharamshala, District Kangra, Himachal Pradesh are quashed and set aside. Petitioner is acquitted of the charges framed against him in the said FIR/proceedings.

The petition stands disposed of in the aforesaid terms, alongwith all pending applications.

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