
(2022) 03 JH CK 0013

In the Jharkhand High Court

Case No : Criminal Miscellaneous Petition No. 2309 Of 2016

Vineet Nayyar And Others

APPELLANT

Vs

State Of Jharkhand And Others

RESPONDENT

Date of Decision : 08-03-2022

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 173
Indian Penal Code, 1860 — Section 307, 406

Citation : (2022) 03 JH CK 0013

Hon'ble Judges : Sanjay Kumar Dwivedi, J

Bench : Single Bench

Advocate : J.S. Jha, S.K. Tiwary, P.A.N. Roy

Final Decision : Allowed

Judgement

Sanjay Kumar Dwivedi , J

Heard Mr. J.S. Jha, the learned counsel for the petitioner,

Mr. P.A.N.Roy, the learned counsel for the O.P.No.2 and Mr. S.K.Tiwary, the learned counsel for the respondent State.

This petition has been filed for quashing the entire criminal proceeding arising out of Complaint Case No.53 of 2012, including the order taking dated 08.05.2012 by which the process has been issued against the petitioners, pending in the court of learned Judicial Magistrate, 1st Class, Ranchi.

The prosecution in brief is that the complainant has been appointed as consignee agents of M/s CYCLO (I) Ltd, Aligarh and thereafter it is alleged that a sum of Rs.1,55,570/- was deposited by demand draft as security deposit. It is mentioned in the agreement that after completion or termination of the agency the same will be returned entire deposited amount. It is further alleged that the complainant continues to do work as a consignee as agent till March, 2009 and thereafter the complainant demanded to return back to security deposit but

same has been not returned by the petitioners, which became the subject matter of dispute in between the complainant and the petitioners, which ultimately followed institution of criminal prosecution against the petitioners.

The learned counsel for the petitioners submits that the case is arising out of business transaction between the petitioners and the O.P.No.2. He submits that there are case and counter case and it was agreed between the parties that the case filed shall be withdrawn by both the parties and on that basis the compromise has been entered into.

Mr. Jha, the learned counsel appearing for the petitioners submits that he has already withdrawn the petition filed by the petitioner at Aligarh. He submits that O.P.No.2 has not withdrawn the petition which is filed at Ranchi.

Mr. Roy, the learned counsel for the O.P.No.2 submits that the compromise has been entered into and he has no objection if the entire criminal proceeding is quashed as the compromise has been entered into.

In view of the above facts and considering that the parties have compromised and the matter is arising out of commercial transaction, there is no societal interest involved in this petition and on this fact a reference may be made to the case of 'Narinder Singh & Ors. Versus State of Punjab & Anr., reported in (2014) 6 SCC 466, wherein the Hon'ble Supreme Court has held that in even those cases which are not compoundable and there is no chance of conviction and also there is no societal interest, where the parties have settled the matter between themselves, the power is to be exercised. In Paragraphs-

29 and 30, the Hon'ble Supreme Court has held as follows:-

"29. At this juncture, we would like also to add that the timing of settlement would also play a crucial role. If the settlement is arrived at immediately after the alleged commission of offence when the matter is still under investigation, the High Court may be somewhat liberal in accepting the settlement and quashing the proceedings/investigation. Of course, it would be after looking into the attendant circumstances as narrated in the previous para. Likewise, when challan is submitted but the charge has not been framed, the High Court may exercise its discretionary jurisdiction. However, at this stage, as mentioned above, since the report of the I.O. under Section 173, Cr.P.C. is also placed before the Court it would become the bounding duty of the Court to go into the said report and the evidence collected, particularly the medical evidence relating to injury etc. sustained by the victim. This aspect, however, would be examined along with another important consideration, namely, in view of settlement between the parties, whether it would be unfair or contrary to interest of justice to continue with the criminal proceedings and whether possibility of conviction is remote and bleak. If the Court finds the answer to this question in affirmative, then also such a case would be a fit case for the High Court to give its stamp of approval to the compromise arrived at between the parties, inasmuch as in such cases no useful purpose would be served in carrying out the criminal proceedings

which in all likelihood would end in acquittal, in any case.

30. We have found that in certain cases, the High Courts have accepted the compromise between the parties when the matter in appeal was pending before the High Court against the conviction recorded by the trial court. Obviously, such cases are those where the accused persons have been found guilty by the trial court, which means the serious charge of Section 307 IPC has been proved beyond reasonable doubt at the level of the trial court. There would not be any question of accepting compromise and acquitting the accused persons simply because the private parties have buried the hatchet."

The case of the petitioner is on better footing as cognizance is taken under section 406 of I.P.C which is compoundable.

In view of the above and considering the judgment of Hon'ble Supreme Court, there is no societal interest involved, the case is arising out of a commercial transaction and the parties have compromised, and to allow the instant proceeding would amount to abuse of the process of law, and accordingly, the entire criminal proceeding including the order taking cognizance dated 08.05.2012 arising out of Complaint Case No.53 of 2012, pending in the court of learned Judicial Magistrate, 1st Class, Ranchi is hereby quashed.

Cr.M.P. No. 2309 of 2016 is allowed and disposed of.

I.A. if any also stands disposed of.