
(2019) 02 JH CK 0030

In the Jharkhand High Court

Case No : Criminal Miscellaneous Petition No. 19 Of 2019

Zishan Ali @ Md. Jisan Ali

APPELLANT

Vs

State Of Jharkhand And Ors

RESPONDENT

Date of Decision : 20-02-2019

Acts Referred:

Indian Penal Code, 1860 — Section 498A
Code Of Criminal Procedure, 1973 — Section 482
Constitution Of India, 1950 — Article 226

Citation : (2019) 02 JH CK 0030

Hon'ble Judges : Shree Chandrashekhar, J

Bench : Single Bench

Advocate : Shailesh Kumar Singh, Suraj Verma, Vikram Sinha, Abdul Wahab

Final Decision : Allowed

Judgement

1. Initially, this quash-petition was filed challenging the order taking cognizance dated 22.06.2017 by which cognizance for the offence punishable under section 498A IPC has been taken in C.P Case No. 637 of 2017, however, by filing I.A No. 256 of 2019 the petitioner and the complainant-O.P No. 2 have jointly prayed for quashing of the entire criminal proceeding arising out of C.P. Case No. 637 of 2017.

2. The petitioner has produced a copy of the deed of settlement dated 31.12.2018 which has been signed by O.P No. 2 and her husband who is petitioner in the present proceeding. Each page of this deed of settlement has been signed by both the parties. I.A No. 256 of 2019 has also been signed by both the parties. It is supported by separate affidavits of both the parties. The petitioner and his wife-O.P No. 2 have produced photo copies of their Aadhar Card and they have been identified by their learned counsels.

3. In a long line of judgments including the one in "B. S. Joshi and Others Vs. State of Haryana and Another" reported in (2003) 4 SCC 675, the Hon'ble Supreme Court has held that in appropriate cases criminal proceeding in non-

compoundable cases also can be quashed by the High Court in exercise of the powers under Article 226 of the Constitution of India or section 482 Cr.P.C. It has been observed that if the complainant/informant is not inclined to prosecute further and the parties have arrived at a settlement which would further peace and harmony between the parties, more particularly, in the dispute arising out of matrimonial cases, the entire criminal proceeding can be quashed by the High Court. In "Gian Singh Vs. State of Punjab and Another" reported in (2012) 10 SCC 303, the Hon'ble Supreme Court has indicated the following circumstances in which a criminal proceeding can be quashed by the High Court :

"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 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 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 predominately 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."

4. The learned counsels appearing for the parties state that the parties stand by the deed of settlement dated 31.12.2018 and an application for withdrawal of the maintenance case in furtherance of the aforesaid deed of settlement has already been filed by O.P No. 2.

5. In view of the settlement between the parties, I am of the opinion that the entire criminal proceeding arising out of C.P. Case No. 637 of 2017 including the order taking cognizance dated 22.06.2017 can be quashed.

6. Ordered accordingly.

7. The petitioner stands discharged of the liability of the bail-bond, if any, furnished by him.

8. In the result, Cr.M.P No. 19 of 2019 is allowed in the aforesaid terms.

9. I.A No. 256 of 2019 stands disposed of.

10. Let a copy of the order be transmitted to the court concerned through FAX.