

Smt. Medhavini Bishnoi Sahai and Another Vs. State of M.P. And Another.

28.8.2014.

Petitioners by Shri Devendra Sharma Advocate.

Respondent no.1/state by Shri Pramod Pachauri PP.

Respondent no.2 by Shri Atul Sharma Advocate.

1. With the consent of both the parties, the final arguments were heard at the motion stage.
2. Invoking the extraordinary jurisdiction of this Court conferred under Section 482 of CrPC, the petitioners have filed this petition for quashing First Information Report concerning Crime No.509 of 2014 under Section 420, 406 and 34 of IPC registered at PS Bahodapur District Gwalior.
3. Facts in nut-shell giving rise to the petition are that complainant/respondent no.2 lodged a report against the petitioners to the effect that on 15.4.2010, 8.12.2010, 12.5.2011 and 31.10.2013 the petitioner no.2 with the connivance of petitioner no.1 used locker which is in the joint name of respondent/complainant, illegally and in this way, helping her daughter petitioner no.1 after desertion. Hence, a case has been registered against the petitioners for the offences mentioned above at Crime No.509 of 2014 under Section 420, 406 and 34 of IPC registered at PS Bahodapur District Gwalior.
4. Learned counsel for the petitioners submits that the

parties have amicably settled the dispute and hence, filed I.A.No.6572 of 2014 jointly stating therein that respondent no.2/complainant does not want to further prosecute the criminal case against the petitioners-accused. The petition has been signed by both the parties. The petition is supported by the affidavit of complainant with a prayer to quash the FIR as stated herein above. The compromise was verified by the Principal Registrar on 25.8.2014.

5. The counsel for the state formally opposed the prayer.

6. On perusal of the aforesaid facts, it is evident that all the disputes were resolved mutually owing to which, the respondent no.2 does not want to prosecute the petitioners. In such circumstances, there are bleak chances of conviction in this case. The continuation of the prosecution against the petitioners would be mere abuse of the process of law in the instant case.

7. The Supreme Court in ***Shiji @ Pappu and others v. Radhika & Another, 2012 Cr.L.R. (SC) 69***, it has been ruled that where there is no chance of recording conviction against the accused persons and the entire exercise of a trial is destined to be an exercise in futility, the criminal case registered against the accused persons though it may not be compoundable can be quashed by the High Court in exercise of powers under Section 482 of Cr.P.C.

8. The Supreme Court in ***Gian Singh Vs. State of Punjab and Another (2012) 10 SCC 303*** in para 61, the Hon'ble Apex Court has held as under :

“61. 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 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 predominatingly 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”.

9. In this case, as the compromise between the complainant/respondent no.2 and the petitioners have been carried out, the possibility of conviction is remote and bleak. Continuation of the criminal case would be futile exercise and would tantamount to abuse of process of law, despite settlement and compromise having been reached between the victim and the offenders. Considering the nature of offence and facts and circumstances of the case, the petition may be allowed.

10. In view of the foregoing and having regard to the factum of compromise arrived at between the parties and in the light of law laid down by the Apex Court in the cases of ***Shiji @ Pappu and Gian Singh (supra)***, the criminal proceedings pending against the petitioner/accused concerning Crime No.509 of 2014 under Section 420, 406 and 34 of IPC registered at PS Bahodapur District Gwalior

MCRC.7596.2014.

5

are ordered to be quashed.

This petition is disposed of accordingly.

(M.K.Mudgal)
Judge.

Rks