

IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL

Writ Petition Criminal No. 645 of 2014

Ashraf and others Petitioners

versus

State of Uttarakhand & others Respondents

Mr. Azmeen, Advocate for the petitioners.

Mr. K.S. Rawal and Mr. Rakesh Kunwar, Brief Holders for the respondent State.

Mr. Lalit Sharma, Advocate for respondent no. 3.

U.C. Dhyani, J.(Oral)

An FIR was lodged against the accused (petitioners herein) for the offences punishable under Sections 323, 504, 506 of IPC.

2) A compounding application, being CLMA no. 5997 of 2014, is filed by the parties to indicate that they have buried their differences and have settled their dispute amicably. Said application is supported by the affidavits of Mohd. Yunus (petitioner no. 2 herein) and injured Sohrab Malik (respondent no. 3 herein).

3) Complainant-injured Sohrab Malik was present in person before the Court on 06.06.2014, duly identified by his counsel Mr. Lalit Sharma, who stated that he was no more interested in prosecuting the petitioners. Petitioners were also present in person before the Court, duly identified by their counsel Mr.

Azmeen, who also affirmed what was stated by the complainant-injured in the Court on that day. Learned counsel for the injured- complainant made a statement in the Court that the injured (respondent no. 3 herein) is not interested in prosecuting the petitioners and, therefore, the FIR lodged in this behalf be quashed.

4) Offences alleged against the petitioners are compoundable offences within the scheme of Section 320 of Cr.P.C.

5) The only question which is left for consideration of this Court is whether the injured-victim should be permitted to compound the offences complained of against the accused-petitioners or not?

6) It will be useful to reproduce here-in-below the law laid down by Hon'ble Apex Court in **Gian Singh vs. State of Punjab and another (2013) 1 SCC (Cri) 160**, wherein it was observed, in the context of such cases, as under:

“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 of 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 pre-dominantly 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 proceedings 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."

7) Since the injured-victim has settled the dispute amicably with the accused-petitioners, therefore, he should be permitted to compound the offences complained of against the accused-petitioners in the interest of society as well as in the interest of justice.

8) Compounding application no. 5997 of 2014 is allowed. Consequently, FIR dated 04.05.2014, lodged by respondent no. 3, at police station, Haldwani, District Nainital, registered as FIR no. 241 of 2014, under Sections 323, 504, 506 of IPC is hereby quashed on the basis of compromise entered into between the parties.

(U.C. Dhyani, J.)

Dt. August 29, 2014.

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