

## ORDER

# Harphool Singh Chaudhary Vs. State of Rajasthan & Anr.

**Date of Order:-**                      **October 31, 2014.**

**HON'BLE MRS. JUSTICE NISHA GUPTA**

Shri P.C. Sharma for the petitioner.

Shri Rajendra Singh Raghav, Public Prosecutor.

Shri Ravi Chirania for complainant-respondent No.2.

Petitioner and complainant-respondent No.2 are present in person.

\* \* \* \*

**BY THE COURT:-**

The defects pointed out by the Registry are waived.

**2)** This criminal misc.petition u/S.482 Cr.P.C. has been filed for quashing of FIR No.11/2014 dated 24/05/2014 registered at Police Station G.R.P.,

Udaipur for offence u/Ss.341, 323, 354 and 392 IPC lodged at the instance of complainant-respondent No.2 but during the pendency of the criminal proceedings, a compromise was arrived at between the parties on 11/08/2014 and parties filed compromise (Ann.4) before this Court.

**3)** Both the parties are present in person in token of the compromise having been taken place between them. They have also appended their signatures in the court file and have been identified by their respective counsel.

**4)** Learned counsel for the parties jointly submitted that impugned-FIR should be quashed and set-aside on the basis of compromise in the light of the judgment of the Apex Court rendered in ***Jagdish***

***Chanana & Ors vs State Of Haryana & Anr., JT***

***2008 (4) SC 511***, wherein it was held: -

“The fact that a compromise has indeed been recorded is admitted by all sides and in terms of the compromise the disputes which are purely personal in nature and arise out of commercial transactions, have been settled in terms of the compromise with one of the terms of the compromise being that proceedings pending in court may be withdrawn or compromised or quashed, as the case may be. In the light of the compromise, it is unlikely that the

prosecution will succeed in the matter. We also see that the dispute is a purely personal one and no public policy is involved in the transactions that had been entered into between the parties. To continue with the proceedings, therefore, would be a futile exercise."

Further reliance has been placed on ***Nikhil Merchant vs C.B.I. & Anr., (2008) 9 SCC 677***

wherein it was held:

"On an overall view of the facts as indicated hereinabove and keeping in mind the decision of this Court in B.S. Joshi's case (supra) and the compromise arrived at between the Company and the Bank as also clause 11 of the consent terms filed in the suit filed by the Bank, we are satisfied that this is a fit case where technicality should not be allowed to stand in the way in the quashing of the criminal proceedings, since, in our view, the continuance of the same after the compromise arrived at between the parties would be a futile exercise."

In ***Shiji @ Pappu & Ors. vs Radhika & Anr, (2011) 10 SCC 705*** it was held:

"It was a case which has its origin in the civil dispute between the parties, which dispute has, it appears, been resolved by them. That being so, continuance of the prosecution where the complainant is not ready to support the allegations which are now described by her as arising out of some misunderstanding and misconception will be a futile exercise that will serve no purpose. It is noteworthy that the two alleged eye witnesses, who are closely related to the

complainant, are also no longer supportive of the prosecution version. The continuance of the proceedings is thus nothing but an empty formality. Section 482 Cr.P.C. could, in such circumstances, be justifiably invoked by the High Court to prevent abuse of the process of law and thereby preventing a wasteful exercise by the Courts below."

In ***B.S. Joshi & Ors vs State Of Haryana & Anr JT 2003 (3) SC 277***, the Supreme Court held:

"In view of the above discussion, we hold that the High Court in exercise of its inherent powers can quash criminal proceedings or FIR or complaint and Section 320 of the Code does not limit or affect the powers under Section 482 of the Code."

In ***Jayrajsingh Digvijaysingh Rana vs State Of Gujarat & Anr. 2012 Cr.L.R. (SC) 743*** it was held:-

"In such bona fide circumstances, the power under Section 482 may be exercised. Further, in view of the settlement arrived at between Respondent No. 2-the complainant and the appellant (Accused No. 3), there is no chance of recording a conviction insofar as the present appellant is concerned and the entire exercise of trial is destined to be an exercise in futility. Inasmuch as the matter has not reached the stage of trial, we are of the view that the High Court, by exercising the inherent power under Section 482 of the Code even in offences which are not compoundable under Section 320, may quash the prosecution. However, as observed in Shiji (supra), the power under Section 482 has to be exercised

sparingly and only in cases where the High Court is, for reasons to be recorded, of the clear view that continuance of the prosecution would be nothing but an abuse of the process of law. In other words, the exercise of power must be for securing the ends of justice and only in cases where refusal to exercise that power may result in the abuse of the process of law."

In ***Gian Singh Vs. State of Punjab & Anr., JT 2012 (9) SC 426***, it was held:

"However, certain offences which overwhelmingly and predominantly bear civil flavour having arisen out of civil, mercantile, commercial, financial, partnership or such like transactions or the offences arising out of matrimony, particularly relating to dowry, etc. or the family dispute, where the wrong is basically to victim and the offender and victim have settled all disputes between them amicably, irrespective of the fact that such offences have not been made compoundable, the High Court may within the framework of its inherent power, quash the criminal proceeding or criminal complaint or F.I.R if it is satisfied that on the face of such settlement, there is hardly any likelihood of offender being convicted and by not quashing the criminal proceedings, justice shall be casualty and ends of justice shall be defeated. The above list is illustrative and not exhaustive. Each case will depend on its own facts and no hard and fast category can be prescribed."

5) Heard counsel for the parties and perused the impugned-FIR.

**6)** Considering the fact that the offence alleged against the petitioner is more in the nature of personal wrong, rather than a threat to the society at large and considering the fact that parties have entered into a compromise, this Court is of the opinion that the impugned-FIR deserves to be quashed.

Consequently, the petition under Section 482 Cr.P.C. is hereby allowed and impugned-FIR No.11/2014 dated 24/05/2014 registered at Police Station G.R.P., Udaipur for offence u/Ss.341, 323, 354 and 392 IPC and the entire consequential criminal proceedings are hereby quashed and set-aside.

**(NISHA GUPTA), J.**

**Anil/15**

*All corrections made in the judgment/order have been incorporated in the judgment/order being emailed.*

*Anil Goyal Sr. P.A.*