

IN THE HIGH COURT OF UTTARAKHAND AT
NAINITAL

Criminal Misc. Application No. 242 of 2017
(Under Section 482 Cr.P.C.)

Deep Chandra Pandey and three others Applicants

versus

State of Uttarakhand and another Respondents

Mr. Pradeep Hairiya, Advocate, present for the applicants.

Ms. Geeta Parhiar, Brief Holder, present for the State of Uttarakhand/respondent no.1.

Mr. Ravi Joshi, Advocate, holding brief of Mr. Paritosh Dalakoti, present for the respondents no.2.

U.C. Dhyani, J. (Oral)

1. By means of present Application under Section 482 Cr.P.C., the applicants seek to quash the charge sheet dated 30.06.2014, cognizance order dated 18.07.2014 & 15.02.2016 as well as the entire proceedings of Criminal Case No. 930 of 2014, captioned as State vs. Deep Chandra Pandey and others, for the offences punishable under Sections 498-A, 323, 504 and 506 of IPC and Section 3/4 of the Dowry Prohibition Act, pending in the Court of learned 1st Additional Civil Judge(J.D.)/Judicial Magistrate, Haldwani, District Nainital.
2. A compounding application being CRMA No. 252 of 2017 has been filed by the parties to show that the parties

have buried their differences and have settled their disputes amicably. Applicants are present in person duly identified by their counsel Mr. Pradeep Hairiya, Advocate. Mrs. Gunjan Pandey @ Rita (complainant)/respondent no. 2 is present in person, duly identified by her counsel Mr. Ravi Joshi, Advocate. Ms. Mrs. Gunjan Pandey @ Rita (respondent no. 2) submitted that parties have settled their disputes amicably and now she has no grievance left against the applicants. Respondent no. 2 further submitted that she has no objection if the criminal proceedings initiated by her against the applicants are quashed on the basis of compromise entered into between the parties.

3. Whereas offences punishable under Sections 323, 504 and 506 of IPC are compoundable offences within the Scheme of Section 320 Cr.P.C., the other offences are not. The question, which arises for consideration of this Court, is-whether the respondent no. 2 (victim) should be permitted to compound the offences alleged against the petitioners or not?
4. Learned counsel for the parties also drew the attention of this Court towards the ruling of ***Gian Singh v. State of Punjab and another, (2013) 1 SCC (Cri) 160***, in which Hon'ble Supreme Court observed as below:

“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 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 proceeding 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.”

5. A reference may also be had to the decision of *Narendra Singh and others vs. State of Punjab and another*, reported in (2014) 6 SCC 466 and Criminal Appeal No. 1498 of 2014, *Manohar Singh vs. State of M.P. and another*, decided by Hon’ble Apex Court on 21.07.2014. Manohar Singh’s case (*supra*) covers the case under Section 498-A and Section 3/4 of the Dowry Prohibition Act.
6. While deciding whether to exercise its power under Section 482 Cr.P.C. or not, timings of settlement play a crucial role. Those cases where the settlement is arrived at immediately after the alleged commission of offence and the matter is still under investigation, the High Court may accept the settlement to quash the criminal proceedings. It is because of the reason that at this stage the investigation is still on and even the charge-sheet has not been filed. Likewise, those cases, where the charge is framed but the evidence is yet to start, the High Court can exercise its powers, but after *prima facie* assessment of the circumstances/material mentioned therein. This Court is of the opinion that this matter deserves to be given a *quietus* as continuance of proceedings arising out of the first

information report in question would be an exercise in futility.

7. The reply to the question, posed by this Court in para no. 3 of this Judgment, therefore, is in the affirmative. Otherwise also, it will be a futile exercise if proceedings of the criminal case against the applicant are kept pending when the parties have settled their disputes amicably.
8. In view of the above, Compounding No. 252 of 2017 is allowed. As a consequence thereof, the charge sheet dated 30.06.2014, cognizance order dated 18.07.2014 & 15.02.2016 as well as the entire proceedings of Criminal Case No. 930 of 2014, captioned as State vs. Deep Chandra Pandey and others, for the offences punishable under Sections 498-A, 323, 504 and 506 of IPC and Section 3/4 of the Dowry Prohibition Act, pending in the Court of learned 1st Additional Civil Judge(J.D.)/Judicial Magistrate, Haldwani, District Nainital, are hereby quashed *qua* applicants.
9. Application under Section 482 Cr.P.C. is thus disposed of in terms of compromise arrived at between the parties.

(U.C. Dhyani, J.)
28.04.2017

Mamta/Kaushal

