

C482 No. 1020 of 2018

**Hon'ble Manoj K. Tiwari, J.**

Mr. Nagesh Aggarwal, Advocate for the applicant.

Mr. S.K. Chaudhary, Deputy Advocate General for the State of Uttarakhand.

Mr. Rajendra Singh Azad, Advocate for respondent no. 2.

Heard learned counsel for the parties.

This criminal misc. application has been filed by the applicant for quashing cognizance order dated 26.02.2018 and entire proceedings of Criminal Case No. 139 of 2018 pending in the Court of learned First Additional Civil Judge (Senior Division)/ Additional Chief Judicial Magistrate, Haridwar under Sections 498(A)/ 323/ 504 of I.P.C. and Section 3/4 of the Dowry Prohibition Act.

A joint compounding application (CRMA No. 374 of 2019) has been filed by the parties. In support of compounding application, affidavits have been filed by Mr. Deepak (applicant) and Ms. Surbhi (respondent no. 2/ complainant). It has also been submitted that the parties have settled the dispute amicably and there is no acrimony left between the parties and they have decided to bury the hatchet.

Parties are present in the Court on today, who are duly identified by their respective counsels.

Hon'ble Supreme Court in the case of **Gian Singh Vs. State of Punjab and Another** (supra), has considered the question with regard to the inherent power of the High Court under Section 482 Cr.P.C. in quashing the criminal proceedings against the offender, who has settled his dispute with the victim of the crime in a case, where crime is not compoundable under Section 320 Cr.P.C.

Paragraph Nos.57 and 58 of the said judgment are extracted below:-

*“57. Quashing of offence or criminal proceedings on the ground of settlement between an offender and victim is not the same thing as compounding of offence. They are different and not interchangeable. Strictly speaking, the power of compounding of offences given to a court under Section 320 is materially different from the quashing of criminal proceedings by the High Court in exercise of its inherent jurisdiction. In compounding of offences, power of a criminal court is circumscribed by the provisions contained in Section 320 and the court is guided solely and squarely thereby while, on the other hand, the formation of opinion by the High Court for quashing a criminal offence or criminal proceeding or criminal complaint is guided by the material on record as to whether the ends of justice would justify such exercise of power although the ultimate consequence may be acquittal or dismissal of indictment.*

*58. Where the High Court quashes a criminal proceeding having regard to the fact that dispute between the offender and victim has been settled although offences are not compoundable, it does so as in its opinion, continuation of criminal proceedings will be an exercise in futility and justice in the case demands that the dispute between the parties is put to an end and peace is restored; securing the ends of justice being the ultimate guiding factor. No doubt, crimes are acts which have harmful effect on the public and consist in wrong doing that seriously endangers and threatens well-being of society and it is not safe to leave the crime- doer only because he and the victim have settled the dispute amicably or that the victim has been paid compensation, yet certain crimes have been made compoundable in law, with or without permission of the Court. In respect of serious offences like murder, rape, dacoity, etc; or other offences of mental depravity under IPC or offences of moral turpitude under special statutes, like Prevention of Corruption Act or the offences committed by public servants while working in that capacity, the settlement between offender and victim can have no legal sanction at all. 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.”*

The offences involved in this case are of a personal nature and are not offences against the society. Moreover, they are not heinous offences showing extreme depravity.

Having regard to the fact that the parties have entered into a settlement and in the opinion of this Court, continuation of criminal proceedings against the applicants will be an exercise in futility, therefore, to prevent abuse of process of law, this Court can exercise its inherent powers under Section 482 Cr.P.C. in view of the law laid down by Hon'ble Supreme Court in the case of **Gian Singh Vs. State of Punjab and Another** (supra).

This view is fortified by the judgment rendered by Hon'ble Supreme Court in the case of **Dimpey Gujral Vs. Union Territory through Administrator U.T. Chandigarh and Others** reported in (2013) 11 SCC 497, where a chargesheet filed under Section 307 I.P.C. was also quashed.

In a subsequent judgment rendered in the case of **Parbatbhai Aahir Vs. State of Gujarat** reported in (2017) 9 SCC 641, Hon'ble Supreme Court has reiterated that to secure the ends of justice or to prevent the abuse of process of Court,

complaint or F.I.R. can be quashed by High Court on the ground that the offender and the victim have settled the dispute and the offence is private in nature having no serious impact upon society.

In view of the settlement arrived between the complainant and the accused person, the possibility of conviction is remote and bleak and continuation of the criminal case would put the accused to great oppression and prejudice, which would tantamount to abuse of process of law.

Therefore, to secure the ends of justice, this criminal miscellaneous application under Section 482 Cr.P.C. is allowed. Proceedings of Criminal Case No. 139 of 2018, 'State Vs. Deepak Kumar and others', pending in the Court of learned First Additional Civil Judge (Senior Division)/ Additional Chief Judicial Magistrate, Haridwar are hereby quashed.

Compounding application is, accordingly, disposed of.

**(Manoj K. Tiwari, J.)**

28.02.2019

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