

Mohan Lal and anr Vs. State and anr

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Court : Rajasthan Jodhpur

Decided On : May-29-2014

Appellant : Mohan Lal and anr

Respondent : State and anr

Judgement :

1 IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR
ORDER

S.B.CRIMINAL MISC.

PETITION NO.1150/2014 Mohan Lal Agarwal & anr.

versus State of Rajasthan & Anr.

Date of order : 29.05.2014 PRESENT HON'BLE Mr.JUSTICE VIJAY BISHNOI
Mr.Mahesh Bora, Sr.Advocate assisted by Mr.Nishant Bora for the petitioner.

Mr.Vikram Rajpurohit, Public Prosecutor.

Mr.Surendra Lal Gadhiya for respondent No.2.

BY THE COURT: This criminal misc.

petition under Section 482 Cr.P.C.has been filed by the petitioners with a prayer to quash the FIR No.365/2010 of Police Station Jawahar Nagar, Sr.Ganganagar for the offences punishable under Sections 420, 467, 468, 471 and 120(B) I.P.C.on the basis of compromise arrived at between the petitioners and respondent No.2.

On 21.5.2014, the learned counsel for the petitioners and learned counsel for the respondent No.2 prayed for some time to file compromise deed before this Court.

Today, a 2 joint application on behalf of petitioner No.1 and respondent No.2 has been filed wherein it is prayed that on the basis of a compromise arrived at between the parties, the respondent No.2 does not want to press the allegations levelled against the petitioners in the FIR and, therefore, the FIR may kindly be quashed.

Learned counsel for the petitioners as well as learned counsel for the respondent No.2 have submitted that compromise deed has already been produced before the Investigating Officer, who is investigating the matter in connection with impugned FIR, but the Investigating Officer has expressed his inability to close the case on the basis of compromise arrived at between the parties and, therefore, the petitioners have filed this criminal misc.

petition with a prayer to quash the impugned FIR filed against them.

From perusal of impugned FIR, it is revealed that the respondent No.2 has levelled allegation against the petitioners and some other persons that the petitioner No.1 Mohan Lal has got opened a joint bank account in the name of respondent No.2 and one Ram Niwas by affixing his photo in 3 place of him and by forging his signatures.

It is alleged that the petitioner No.1 is operating the said bank account though he has never opened any such joint bank account along with Ram Niwas.

It is also revealed from the allegations levelled in the FIR that the petitioner No.1 was the employee of the respondent No.2 from last about 25 years.however, in the FIR, there is no allegation regarding mis-appropriation of funds.

In the joint application moved on behalf of the petitioners and respondent No.2, it is mentioned that both the parties have amicably resolved the dispute and, therefore, now the respondent No.2 does not want to press the allegations levelled in the FIR against the petitioners. After going through the impugned FIR, this Court is of the opinion that the allegations levelled in the FIR are personal in nature.

In the impugned FIR, no role of petitioner No.2 in commission of offence has been defined.

The Hon'ble Apex Court while answering a reference in the case of Gian Singh versus State of Punjab & Anr.

reported in JT20129) SC-426, has held as below:- 57.

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 victims 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.

Having considered the facts and circumstances of the case and looking to the fact that the dispute between the parties have already been settled, it is a fit case wherein the impugned FIR can be quashed.

6 In view of the law laid down by the Hon'ble Supreme Court in Gian Singh's case (supra) and in the facts and circumstances as noted above this Criminal Misc.

Petition is allowed and the impugned FIR is hereby quashed.

Stay petition is disposed of.

[VIJAY BISHNOI].,J.

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