

Baldev Singh and ors Vs. State and anr

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Court : Rajasthan Jodhpur

Decided On : May-27-2014

Appellant : Baldev Singh and ors

Respondent : State and anr

Judgement :

S.B.CRIMINAL MISC.

PETITION NO.1256/2014 Baldev Singh & ORS.V/S State of Rajasthan & Anr.

1 THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

ORDER

S.B.CRIMINAL MISC.

PETITION NO.1256/2014 Baldev Singh & ORS.V/S State of Rajasthan & Anr.

Date of Order : 27th May, 2014 PRESENT HONBLE MR.JUSTICE VIJAY BISHNOI Mr.D.S.Thind, for petitioners.Mr.R.K.Bohra, Public Prosecutor.

Mr.R.S.Gill, 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 for quashing the criminal proceeding in Criminal Case No.105/2012 pending before the Judicial Magistrate, FiRs.Class, Tibbi, District Hanumangarh.

Learned counsel for the petitioners has submitted that the petitioner Nos.1 and 2 are the real brother of the respondent No.2 and the petitioner Nos.3 and 4 are near relatives of the respondent No.2 and the dispute between the petitioners and the respondent No.2 was in relation to some agriculture land.

It is contended that now the dispute S.B.CRIMINAL MISC.

PETITION NO.1256/2014 Baldev Singh & ORS.V/S State of Rajasthan & Anr.

2 between the parties have already been settled amicably and the proceedings pending before the civil court as well as the revenue court has already been decided on the basis of compromise entered into the parties.

It is contended that as the dispute between the parties has already been settled amicably and the respondent No.2 does not want to pursue the criminal prosecution launched against the petitioners on the basis of complaint of him.

Learned counsel for the respondent No.2 also confirmed that the dispute between the parties has already been resolved amicably and now the respondent No.2 does not want to pursue the case against the petitioners.Heard learned counsel for the petitioners and learned Public Prosecutor as well as learned counsel for the respondent No.2.

It is clear that the complainant- respondent No.2 and the petitioners are relatives and the dispute between them was in relation to some agriculture land.

It is also clear that the dispute between the parties is more or less of civil nature.

It is noticed that the proceedings pending before the civil S.B.CRIMINAL MISC.

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3 court as well as the revenue court have been decided on the basis of the compromise entered into between the parties.

The affidavit of respondent No.2 and an application filed before the SHO, Police Station, Tibbi, District Hanumangarh, with a prayer for terminating the proceedings against the petitioners is also available on record.

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 S.B.CRIMINAL MISC.

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4 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 S.B. CRIMINAL MISC.

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5 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 amicably and the respondent No.2 has moved applications with a prayer for terminating the

proceedings S.B.CRIMINAL MISC.

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6 against the petitioners.it is a fit case wherein the proceedings against the petitioners can be quashed.

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 proceedings pending against the petitioners in Criminal Case No.105/2012 before the Judicial Magistrate, FiRs.Class, Tibbi, District Hanumangarh are hereby quashed.

Stay petition is disposed of.

[VIJAY BISHNOI],J.

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