

**Manoj Kumar Yadav and anr Vs. State and anr**

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**Court :** Delhi

**Decided On :** Aug-12-2014

**Judge :** Sudershan Kumar Misra

**Appellant :** Manoj Kumar Yadav and anr

**Respondent :** State and anr

**Judgement :**

\$~ \* IN THE HIGH COURT OF DELHI AT NEW DELHI + CRL.M.C. 3460/2014  
MANOJ KUMAR YADAV & ANR ..... Petitioners Through Mr. Maroof Ahmed, Mr.  
B. U. Barqi, Advocates. versus STATE & ANR Through ..... Respondents Mr. Amit  
Ahlawat, Additional Public Prosecutor. ASI Gurcharan Singh, New Ashok Nagar.  
CORAM: HON'BLE MR. JUSTICE SUDERSHAN KUMAR MISRA %  
SUDERSHAN KUMAR MISRA, J.

(Oral) Crl.M.A. Nos.11958/2014 & 11959/2014 Exemptions, as prayed for, are allowed, subject to all just exceptions. These application are disposed off. Crl.M.C. No.3460/2014 1. This petition under Section 482 Cr.P.C. praying that FIR No.177/2011 dated 15.06.2011 registered under Section 363 IPC at police station New Ashok Nagar, and all proceedings emanating therefrom, be quashed since the parties have entered into a compromise.

2. Issue notice.

3. Mr. Amit Ahlawat, Additional Public Prosecutor for the State, accepts notice.

4. Second respondent, who is the complainant, is also present in person.

5. The Investigating Officer, ASI Gurcharan Singh, identifies the complainant as well as petitioners 1 and 2. It is also stated that no charge sheet has yet not been filed in the matter.

6. To begin with, an FIR was lodged by the second respondent, Giri Raj Kishore on 15.06.2011 alleging that his daughter, Luxmi Sharma, who is arrayed as second respondent before this Court, was missing and appears to have been kidnapped by some unknown person. Ultimately, on 11.07.2013, Luxmi Sharma was recovered by the police. By that time, she had gotten married to the first petitioner, Manoj Kumar Yadav and had given birth to a son who is now stated to be aged about 7 months. The first petitioner, Manoj Kumar Yadav, is a young man aged about 24 years, who is stated to be gainfully employed in a Honda Motorcycle showroom in district Katihar (Bihar). He is also stated to be the son of one Sh. Parmeshwar Yadav, who is a Group-D employee in the North Eastern Railways.

7. Counsel for the State submits that looking to the overall circumstances, whereby the petitioners 1 and 2 now appear to be happily married and also have infant son to look after; and none of the parties, including the complainant Giri Raj Kishore, who is the father of Laxmi Sharma, is interested in pursuing the matter or supporting the prosecution; no purpose will be served in continuing with these proceedings.

8. Consequently, and looking to the decisions of the Supreme Court in in Gian Singh v. State of Punjab, (2012) 10 SCC303 which has referred to a number of matters for the proposition that even a non-compoundable offence can also be quashed on the ground of a settlement agreement between the offender and the victim, if the circumstances so warrant; and also Narinder Singh and Ors. v. State of Punjab and Anr. 2014(2) Crimes 27 (SC) where the Supreme Court held as follows:

31. In view of the aforesaid discussion, we sum up and lay down the following principles by which the High Court would be guided in giving adequate treatment

to the settlement between the parties and exercising its power under Section 482 of the Code while accepting the settlement and quashing the proceedings or refusing to accept the settlement with direction to continue with the criminal proceedings: (I) Power conferred under Section 482 of the Code is to be distinguished from the power which lies in the Court to compound the offences under Section 320 of the Code. No doubt, under Section 482 of the Code, the High Court has inherent power to quash the criminal proceedings even in those cases which are not compoundable, where the parties have settled the matter between themselves. However, this power is to be exercised sparingly and with caution. (II) When the parties have reached the settlement and on that basis petition for quashing the criminal proceedings is filed, the guiding factor in such cases would be to secure: (i) ends of justice, or (ii) to prevent abuse of the process of any Court. While exercising the power the High Court is to form an opinion on either of the aforesaid two objectives. (III) Such a power is not to be exercised in those prosecutions which involve heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. Such offences are not private in nature and have a serious impact on society. Similarly, for offences alleged to have been committed under special statute like the Prevention of Corruption Act or the offences committed by Public Servants while working in that capacity are not to be quashed merely on the basis of compromise between the victim and the offender. (IV) On the other, those criminal cases having overwhelmingly and pre-dominantly civil character, particularly those arising out of commercial transactions or arising out of matrimonial relationship or family disputes should be quashed when the parties have resolved their entire disputes among themselves. (V) While exercising its powers, the High Court is to examine as to whether the possibility of conviction is remote and bleak and continuation of criminal cases would put the accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal cases. (VI) Offences under Section 307 Indian Penal Code would fall in the category of heinous and serious offences and therefore is to be generally treated as crime against the society and not against the individual alone. However, the High Court would not rest its decision merely because there is a mention of Section 307 Indian Penal Code in the FIR or the charge is framed under this provision. It would be open to the High Court to

examine as to whether incorporation of Section 307 Indian Penal Code is there for the sake of it or the prosecution has collected sufficient evidence, which if proved, would lead to proving the charge under Section 307 Indian Penal Code. For this purpose, it would be open to the High Court to go by the nature of injury sustained, whether such injury is inflicted on the vital/delegate parts of the body, nature of weapons used etc. Medical report in respect of injuries suffered by the victim can generally be the guiding factor. On the basis of this prima facie analysis, the High Court can examine as to whether there is a strong possibility of conviction or the chances of conviction are remote and bleak. In the former case it can refuse to accept the settlement and quash the criminal proceedings whereas in the later case it would be permissible for the High Court to accept the plea compounding the offence based on complete settlement between the parties. At this stage, the Court can also be swayed by the fact that the settlement between the parties is going to result in harmony between them which may improve their future relationship. (VII) While deciding whether to exercise its power under Section 482 of the Code 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 be liberal in accepting the settlement to quash the criminal proceedings/investigation. 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 or the evidence is still at infancy stage, the High Court can show benevolence in exercising its powers favourably, but after prima facie assessment of the circumstances/material mentioned above. On the other hand, where the prosecution evidence is almost complete or after the conclusion of the evidence the matter is at the stage of argument, normally the High Court should refrain from exercising its power under Section 482 of the Code, as in such cases the trial court would be in a position to decide the case finally on merits and to come a conclusion as to whether the offence under Section 307 Indian Penal Code is committed or not. Similarly, in those cases where the conviction is already recorded by the trial court and the matter is at the appellate stage before the High Court, mere compromise between the parties would not be a ground to accept the same resulting in acquittal of the offender who has already

been convicted by the trial court. Here charge is proved under Section 307 Indian Penal Code and conviction is already recorded of a heinous crime and, therefore, there is no question of sparing a convict found guilty of such a crime.

And the judgment of this Court in *Basara and Ors. v. State and Anr.* in Crl. M.C. No.6621-24/2006 decided on 3rd September, 2007, wherein it was, inter alia, held as under:

14. ....Peace has been brought in the locality with the intervention of the well wishers of the locality. When there is peace in locality, there will be peace in the town. When there is peace in town, there will be peace in city. When there is peace in city, there will be peace in State. When there is peace in State, there will be peace in country.....

15. The petition is according allowed. FIR No.4/2005 registered against the petitioners under Section 307 read with Section 34 IPC with Police station Samay Pur Badli is quashed and all consequent proceedings pursuant thereto are also ordered to be dropped.

I am of the considered opinion that it would be in the fitness of things if the matter is give a quietus where the parties have settled the matter and the likelihood of the prosecution succeeding is remote; no useful purpose will be served in continuing with these proceedings.

9. Consequently, the petition is allowed and FIR No.1777/2011 dated 15.06.2011 registered under Section 363 IPC at police station New Ashok Nagar, as well as all proceedings emanating therefrom, are hereby quashed.

10. The petition is disposed off. SUDERSHAN KUMAR MISRA, J AUGUST12 2014 dr

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