

Raj Kumar vs.state & Anr

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Court : Delhi

Decided On : Nov-21-2016

Appellant : Raj Kumar

Respondent : State & Anr

Judgement :

* + IN THE HIGH COURT OF DELHI AT NEW DELHI CRL.M.C. 1037/2016 Date of Decision: November 21st, 2016 Through Mr.R.K.Jain, Adv. versus

... Petitioner

.....

... RESPONDENTS

RAJ KUMAR STATE & ANR Through: Mr.G.M.Farooqui, APP. Mr.Nikhil Yadav, Adv.for R-2. CORAM: HON'BLE MR. JUSTICE P.S.TEJI P.S.TEJI, J.

1. The present petition under Section 482 Cr.P.C. has been filed by the petitioner, namely, Sh. Raj Kumar for quashing of FIR No.67/2012 dated 29.03.2012, under Sections 287/338/374 IPC IPC, Section 26 JJ Act &

Child Labour Act registered at Police Station Subzi Mandi on the basis of settlement arrived at between the petitioner and respondent no.2 namely, Sh. Sikander Kumar.

2. respondent-State Learned Additional Public Prosecutor submitted that the respondent No.2 present in the Court has been identified to be the

complainant/first informant in the FIR in question by his counsel.

3. The factual matrix of the present case is that the complainant, aged 13 years as on the date of the incident i.e. 29.03.2012, was an employee of a factory that manufactured cooler blades. It is alleged by the complainant the accused person/owner of the said factory asked the complainant to operate a certain machine in the factory. It is the case of the complainant that he was compelled to operate the machine by the accused person, despite that on the date of the incident, for CrI.M.C. 1037/2016 Page 1 of 7 having expressed his inability to do the same as a result of which the cooler blades fell on the hands of the complainant, chopping off one of the fingers of the complainant. Thereafter, the complainant got lodged the complaint following which the FIR in question was registered against the petitioner. During the pendency of the proceedings, the matter was settled between the petitioner and the respondent No.2. Respondent No.2 present in the Court submitted that the dispute 4. between the parties has been amicably resolved. The respondent no.2 has agreed not to pursue this matter any further. Respondent No.2 affirmed the contents of the aforesaid settlement and of his affidavit dated 25.02.2016 supporting this petition. In the affidavit, he has stated that he has no objection if the FIR in question is quashed. All the disputes and differences have been resolved through mutual consent. Now no dispute with petitioner survives and so, the proceedings arising out of the FIR in question be brought to an end. Statement of the respondent No.2 has been recorded in this regard in which he stated that he has entered into a compromise with the petitioner and has settled all the disputes with him. He further stated that he has no objection if the FIR in question is quashed. In *Gian Singh v. State of Punjab* (2012) 10 SCC303 Apex 5. Court has recognized the need of amicable resolution of disputes in cases like the instant one, by observing as under:-

"61. 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 proceedings CrI.M.C. 1037/2016 Page 2 of 7 continuation of to abuse of process of criminal proceedings would or tantamount law despite settlement and compromise between the victim and the 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 the

affirmative, the High Court shall be well within its jurisdiction to quash the criminal proceedings. 6. The aforesaid dictum stands reiterated by the Apex Court in a recent judgment in *Narinder Singh v. State of Punjab* (2014) 6 SCC466. The relevant observations of the Apex Court in *Narinder Singh* (Supra) are as under:-

"29. 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:

29. 1 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. 29.2. 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. Crl.M.C. 1037/2016 Page 3 of 7 29.3. 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 the 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. 29.4. On the other hand, those criminal cases having overwhelmingly and predominantly civil character, particularly commercial transactions or arising out of matrimonial relationship or family disputes should be quashed when the parties have resolved their entire disputes among themselves. arising those out of 7. The inherent powers of the High Court ought to be

exercised to prevent the abuse of process of law and to secure the ends of justice. The respondent No.2 agreed to the quashing of the FIR in question and stated that the matter has been settled out of his own free will. As the matter has been settled and compromised amicably, so, there would be an extraordinary delay in the process of law if the legal proceedings between the parties are carried on. So, this Court is of the considered opinion that this is a fit case to invoke the jurisdiction under Section 482 Cr.P.C. to prevent the abuse of process of law and to secure the ends of justice. The incorporation of inherent power under Section 482 Cr.P.C.

8. is meant to deal with the situation in the absence of express provision of law to secure the ends of justice such as, where the process is abused or misused; where the ends of justice cannot be secured; where CrI.M.C. 1037/2016 Page 4 of 7 the process of law is used for unjust or unlawful object; to avoid the causing of harassment to any person by using the provision of Cr.P.C. or to avoid the delay of the legal process in the delivery of justice. Whereas, the inherent power is not to be exercised to circumvent the express provisions of law. It is settled law that the inherent power of the High Court under 9. Section 482 Cr.P.C. should be used sparingly. The Honble Apex Court in the case of State of Maharashtra through CBI v. Vikram Anatrai Doshi and Ors. MANU/SC/0842/2014 and in the case of Inder Singh Goswami v. State of Uttaranchal MANU/SC/0808/2009 has observed that powers under Section 482 Cr.P.C. must be exercised sparingly, carefully and with great caution. Only when the Court comes to the conclusion that there would be manifest injustice or there would be abuse of the process of the Court if such power is not exercised, Court would quash the proceedings.

10. It is a well settled law that where the High Court is convinced that the offences are entirely personal in nature and therefore do not affect public peace or tranquility and where it feels that quashing of such proceedings on account of compromise would bring about peace and would secure ends of justice, it should not hesitate to quash them. In such cases, pursuing prosecution would be waste of time and energy. Non-compoundable offences are basically an obstruction in entering into compromise. the main offence is compoundable but the connected offences are not. In the case of B.S. Joshi and others v. State of Haryana and another 2003 (4) SCC675 the Honble Apex Court observed that even though the

provisions of In certain cases, Crl.M.C. 1037/2016 Page 5 of 7 Section 320 Cr.P.C. would not apply to such offences which are not compoundable, it did not limit or affect the powers under Section 482 Cr.P.C. The Honble Apex Court laid down that if for the purpose of securing the ends of justice, quashing of FIR becomes necessary, section 320 Cr.P.C. would not be a bar to the exercise of power of quashing. justified the exercise of powers under Section 482 Cr.P.C. to quash the proceedings to secure the ends of justice in view of the special facts and circumstances of the case, even where the offences were non-compoundable. the Honble Apex Court In the nutshell, In the light of the aforesaid, this Court is of the view that notwithstanding the fact that the offences under Sections

IPC are non-compoundable offences, there should be no impediment in quashing the FIR under these sections, if the Court is otherwise satisfied that the facts and circumstances of the case so warrant. therefore, 11. In the facts and circumstances of this case and in view of statement made by the respondent No.2, the FIR in question warrants to be put to an end and proceedings emanating thereupon need to be quashed.

12. Accordingly, this petition is allowed and FIR No.67/2012 dated 29.03.2012, under Sections 287/338/374 IPC IPC, Section 26 JJ Act &

Child Labour Act registered at Police Station Subzi Mandi and the proceedings emanating therefrom are quashed against the petitioner. Crl.M.C. 1037/2016 Page 6 of 7 13. This petition is accordingly disposed of. November 21, 2016 dd (P.S.TEJI) JUDGE Crl.M.C. 1037/2016 Page 7 of 7

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