

Umesh Chitlangia vs.state & Anr

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SooperKanoon Citation : sooperkanoon.com/1209278

Court : Delhi

Decided On : Sep-21-2017

Appellant : Umesh Chitlangia

Respondent : State & Anr

Judgement :

\$~21 * % IN THE HIGH COURT OF DELHI AT NEW DELHI Date of Decision:

21. 09.2017 + CRL.M.C. 1809/2017 & Crl.M.A. 7399/2017 (stay) UMESH CHITLANGIA

... Petitioner

Through: Ms.Rakhi Dubey, Advocate with Mr.Anendra Saraswat, Advocate along with petitioner in person. versus STATE & ANR

... RESPONDENTS

Through: Ms.Aashaa Tiwari, APP for State with SI Janak Singh, PS New Friends Colony, Delhi. Mr.Rohmsdavin Ahlawat, Advocate with Mr.Sunil Ahlawat, Advocate for R-2 along with respondent No.2 in person. CORAM: HON'BLE MR. JUSTICE VINOD GOEL VINOD GOEL, J.

(Oral) 1.

2. father, brother and minor baby. Status report has been filed. Respondent no.2 is present in court. She is accompanied by her mother, She is being represented by

her counsel. She is duly identified by SI Janak Singh. The petitioner has approached this court under Section 482 of the Code of Criminal Procedure, 1973 (in short Cr.PC) for quashing of the FIR bearing No.85/2013, registered against him 3. WP (Crl.) 1809/2017 Page 1 of 6 on 04.04.2013 with Police Station New Friends Colony, Delhi, South-East District, Delhi, under Sections 354 (D)/506 (1) of IPC and Section 66A of Information Technology Act, 2008 on the complaint of respondent No.2. The petitioner was introduced to respondent No.2 by her friend Ms.Rajni. The petitioner remained in touch with the respondent No.2 for two years till January, 2012. Finding the petitioner not so good, she stopped talking to him. However, the petitioner continued to follow and stalk the respondent No.2. The petitioner also used to send SMS and extend threatening calls on her mobile phone. On 18.03.2013, the petitioner approached the respondent No.2 in her New Friends Colony Hostel where he threatened that he shall not let her get married and upload her morphed photographs on the internet. On 03.04.2013, the petitioner had also threatened her brother Nitesh Bhatia on the Facebook. It is submitted that subsequently, the parties have amicably settled all their disputes. The respondent No.2 submits that she had voluntarily settled all her disputes with the petitioner without any force and coercion. She submits that she does not want to pursue the said FIR. She submits that the said FIR may be quashed. Learned ASC through IO submits that the charge sheet has already been filed against the petitioner. The petitioner tenders his apology. He is aged about 30 years.

4. 5.

6. 7. WP (Crl.) 1809/2017 Page 2 of 6 He might not be aware of the consequences that could follow his conduct. He undertakes that he shall not indulge in such behavior and shall not harass or contact or threat the respondent No.2 in any manner. The undertaking so furnished is accepted. He is informed of the undertaking. The Apex Court in the judgment of Gian Singh vs. State of Punjab & Anr., 2012 (10) SCC303 while dealing with the scope of power of High Court under Section 482 Cr.PC observed as under: - the consequences for breach of 8. 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 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. 9. In yet another case of Narinder Singh v. State of Punjab, (2014) 6 SCC466 it was observed by the Apex Court in para 29 as under: - 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 WP (Crl.) 1809/2017 Page 3 of 6 (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. This extract is taken from Narinder Singh v. State of Punjab, (2014) 6 SCC466: (2014) 3 SCC (Cri)

2014 SCC OnLine SC265 at page 483 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 10. Further the Apex Court in Yogendra Yadav & Ors. Vs. State of Jharkhand & Anr. (2014) 9 SCC653 in para 4 observed as under:-

"4. Now, the question before this Court is whether this Court can compound the offences under Sections 326 and 307 IPC which are non-compoundable?. Needless to say that offences which are non-compoundable cannot be compounded by the court. Courts draw the power of compounding offences from Section 320 of the Code. The said provision has to be strictly followed (Gian Singh v. State of Punjab [Gian Singh v. State of Punjab, (2012) 10 SCC303: (2012) 4 WP (Crl.) 1809/2017 Page 4 of 6 SCC (Civ) 11

(2013) 1 SCC (Cri) 1

(2012) 2 SCC (L&S) 988].). However, in a given case, the High Court can quash a criminal proceeding in exercise of its power under Section 482 of the Code having regard to the fact that the parties have amicably settled their disputes and the victim has no objection, even though the offences are non-compoundable. In which cases the High Court can exercise its discretion to quash the proceedings will depend on facts and circumstances of each case. Offences which involve moral turpitude, grave offences like rape, murder, etc. cannot be effaced by quashing the proceedings because that will have harmful effect on the society. Such offences cannot be said to be restricted to two individuals or two groups. If such offences are quashed, it may send wrong signal to the society. However, when the High Court is convinced that the offences are entirely personal in nature and, therefore, do not affect public peace or tranquillity 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. the prosecution becomes a lame prosecution. Pursuing such a lame prosecution would be waste of time and energy. That will also unsettle the compromise and obstruct restoration of peace. In such cases, 11.

12. The dispute is between the individuals which they have settled amicably. It does not affect public peace or tranquility. Rather, it would bring peace and harmony and non-quashing of FIR will unsettle the compromise and obstruct restoration of peace. Since the parties have amicably settled all their disputes, no fruitful purpose would be served in further pursuing the said FIR. Hence, to secure ends of justice, the FIR bearing No.85/2013, registered on 04.04.2013 with Police Station New WP (Crl.) 1809/2017 Page 5 of 6 Friends Colony, Delhi, South-East District, Delhi, under Sections 354 (D)/506 (1) of IPC and Section 66A of Information Technology Act, 2008 and proceedings arising out of the said FIR are hereby quashed. The petition and pending application are disposed of accordingly.

13. 14. DASTI. SEPTEMBER21 2017 shailendra VINOD GOEL, J.

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