

**Rajkumar Khattad Vs. State and Anr**

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**Court :** Rajasthan Jodhpur

**Decided On :** Jan-16-2015

**Appellant :** Rajkumar Khattad

**Respondent :** State and Anr

**Judgement :**

S.B.CRIMINAL MISC.

PETITION NO.2952/2014 Rajkumar Khattad V/S State of Rajasthan & Anr.

1 IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

ORDER

S.B.CRIMINAL MISC.

PETITION NO.2952/2014 Rajkumar Khattad V/S State of Rajasthan & Anr.

Date of order : 16.01.2015 PRESENT HON'BLE Mr.JUSTICE VIJAY BISHNOI Mr Dharmendra Surana, for petitioner.

Mr O.P.Rathi, Public Prosecutor.

Mr Mahaveer Singh Charan, respondent No.2 present in person.

BY THE COURT:- This criminal misc.

petition under Section 482 Cr.P.C.has been preferred by the petitioner with the prayer for quashing the proceedings pending against the petitioner before the Chief Metropolitan Magistrate, Jodhpur Metropolitan (hereinafter referred to as 'the trial court') in Criminal Regular Case No.295/2013 titled as State of Rajasthan versus Rajkumar Khattad (arising out of FIR No.29/2013 of Police Station, Sardarpura, District Jodhpur).whereby the trial court vide order dated 16.10.2014 has attested the compromise for the offences punishable under Sections 420 and 406 IPC but refused to attest S.B.CRIMINAL MISC.

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2 the compromise for the offences punishable under Sections 467, 468 and 471 IPC as the same is not compoundable.

Brief facts of the case are that on a complaint lodged at the instance of respondent No.2 before the trial court, the same has been forwarded to the concerned Police Station.

The Police Station, Sardarpura, Jodhpur has registered an FIR No.29/2013 against the petitioner and after investigation, the police filed charge sheet against the petitioner for offences punishable under Sections 420, 406, 467, 468 and 471 IPC in the trial court wherein the trial is pending against the petitioner for the aforesaid offence.

During the pendency of the trial, an application was preferred on behalf of the petitioner as well as the respondent No.2 while stating that both the parties have entered into compromise and, therefore, the proceedings pending against the petitioner may be terminated.

The trial court vide order dated 16.10.2014 allowed the parties to compound the offences punishable under Sections 420 and 406 IPC, however, rejected the S.B.CRIMINAL MISC.

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3 application so far it relates to compounding the offences punishable under Sections 467, 468 and 471 IPC.

The present criminal misc.

petition has been preferred by the petitioner for quashing the said proceedings against him.

The learned counsel for the petitioner has argued that as the complainant-respondent No.2 and the petitioner have already entered into compromise and on the basis of it, the petitioner has already been acquitted for the offences punishable under Sections 420 and 406 IPC, there is no possibility of conviction of the petitioner for the offences punishable under Sections 467, 468 and 471 IPC.

It is also argued that no useful purpose would be served by continuing the trial against the petitioner for the offence punishable under Sections 467, 468 and 471 IPC because the same may derail the compromise arrived at between the parties.

The respondent No.2, present in person, has admitted that the dispute between him and the petitioner have already been settled amicably by mutual compromise and, therefore, he S.B.CRIMINAL MISC.

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4 does not want to press the charges levelled against the petitioner in relation to offences punishable under Sections 467, 468 and 471 IPC.

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 S.B.CRIMINAL MISC.

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5 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 S.B.CRIMINAL MISC.

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6 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 S.B.CRIMINAL MISC.

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7 circumstances and looking to the fact that the petitioner and respondent No.2 have already entered into compromise, there is no possibility of accused-petitioner being convicted in the case pending against him.

When once the disputes have been settled by the mutual compromise, then no useful purpose would be served by keeping the criminal proceedings pending.

Keeping in view the observations made by the Hon'ble Supreme Court in Gian Singh's case (supra).this Court is of the opinion that it is a fit case for exercising powers under Section 482 Cr.P.C.for quashing the criminal proceedings against the petitioners.Accordingly, this criminal misc.

petition is allowed and the criminal proceedings pending against the petitioner before the Chief Metropolitan Magistrate, Jodhpur Metropolitan in Criminal Regular Case No.295/2013 titled as State of Rajasthan versus Rajkumar Khattad (arising

out of FIR No.29/2013 of Police Station, Sardarpura, District Jodhpur) are hereby quashed.

[VIJAY BISHNOI]., J.

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