

Anoop Sati Vs. State and Anr

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Court : Delhi

Decided On : Dec-01-2014

Judge : Sudershan Kumar Misra

Appellant : Anoop Sati

Respondent : State and Anr

Judgement :

\$~26 * IN THE HIGH COURT OF DELHI AT NEW DELHI + CRL.M.C. 4577/2014 ANOOP SATI Through: Petitioner Ms. Seema Gupta, Advocate with petitioner in person. versus STATE & ANR Through: Respondents Ms. Nishi Jain, APP for the State with SI Ajay Singh, PS Darya Ganj. Mr. Mayank Mohan, Advocate for the complainant with complainant in person. CORAM: HON'BLE MR. JUSTICE SUDERSHAN KUMAR MISRA % SUDERSHAN KUMAR MISRA, J.

(ORAL) 1. This petition has been filed under Section 482 Cr.P.C. seeking quashing of FIR No.420/2014 registered under Section 308 IPC at Police Station Darya Ganj on 19th August, 2014 on the ground that the matter has been amicably settled between the parties.

2. Issue notice. Ms. Nishi Jain, Additional Public Prosecutor and Mr. Mayank Mohan, Advocate enter appearance and accept notice on behalf of the State/respondent No.1 and respondent No.2/complainant, respectively.

3. Petitioner as well as complainant/respondent No.2-Sanjay Tiwari are present in person and are also identified by the Investigating Officer SubInspector Ajay Singh, Police Station Darya Ganj.

4. The aforesaid FIR is stated to have been lodged at the instance of the complainant alleging an assault perpetrated by the petitioner upon the complainant as a result of some altercation between the two over filling up of an application form. In his complaint the complainant had also stated that he knew the accused, who is stated to be aged about 19 years, for the last ten years. In other words, complainant and accused have known each other ever since the accused was aged about 9-10 years. The complainant is stated to be now of about 39 years of age and has been on friendly terms with the family of the accused, who lives in the same locality. The accused is stated to have hit the complainant on his back with an iron rod.

5. Petitioner was granted anticipatory bail on 17th September, 2014. The matter is stated to be at the preliminary stage of investigation as the accused happens to be a young man studying B.Com 1st year from Shaheed Sukhdev College, Delhi University. A copy of the compromise deed executed between the parties on 16th September, 2014 has been annexed to the petition. Counsel for the petitioner further submits that the petitioner is also willing to compensate the complainant with payment of Rs.10,000/- and also to deposit any further amount towards costs as this Court may direct and also to comply with such further directions/conditions that may be imposed.

6. Additional Public Prosecutor appearing for the State submits that looking to the overall circumstances and in view of numerous factors including the age of the accused, occupation of the accused; that the parties are well known to each other and the incident appears to have occurred on the spur of the moment, no useful purpose will be served in continuing with the investigation, moreover where the complainant is no longer interested in supporting the prosecution, no useful purpose will be served in continuing the proceedings and the FIR be quashed, however, subject to payment of compensation and appropriate costs besides binding over the petitioner to maintain good conduct for two years.

7. Complainant approbates the aforesaid settlement and states that he does not wish to pursue the matter any further since he has arrived at an amicable settlement with the accused and has been duly compensated by the accused upon payment of Rs.10,000/- in cash which has been received by him in the Court today. Complainant states that he does not wish to pursue the matter any further and prays that the same be closed.

8. Looking to the decision of the Supreme Court 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 basis of a settlement 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 67 (SC) where the Supreme Court held as follows:

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. 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 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 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. 29.5 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. 29.6 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. 29.7 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 opinion that this matter deserves to be given a quietus at this stage itself, since the parties have resolved their differences. Moreover, the petitioner is a young man and is at the threshold of his life, and wishes to pursue an unblemished career; and has duly compensated the complainant who is no longer interested in supporting the investigation thereby reducing the chances of its success, however, subject to further payment of Rs.10,000/- as costs with the Delhi High Court Bar Association Lawyers Social Security and Welfare Fund within a period of two days from today. In addition, petitioner shall also execute a bond in the sum of Rs.25,000/- to maintain good conduct for another two years before ACP/Special Executing Magistrate of Kamla Market area. Proof of deposit of costs as well as a copy of the bond duly executed upon by the ACP/Special Executing Magistrate of Kamla Market area shall be filed in the Court within two weeks from today with another copy thereof to the Investigating Officer.

9. Consequently, the FIR No.420/2014 registered under Section 308 IPC at Police Station Darya Ganj on 19th August, 2014 and all proceedings emanating therefrom, are hereby quashed.

10. The petition stands disposed off.

11. A copy of this order be given dasti. SUDERSHAN KUMAR MISRA JUDGE
DECEMBER01 2014 AK

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