

Luna Ram and Ors Vs. State and Anr

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Court : Rajasthan Jodhpur

Decided On : Jun-16-2015

Appellant : Luna Ram and Ors

Respondent : State and Anr

Judgement :

S.B.CRIMINAL MISC.

PETITION NO.1608/2015 Luna Ram & ORS.V/S State of Rajasthan & Anr.

1 IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

ORDER

S.B.CRIMINAL MISC.

PETITION NO.1608/2015 Luna Ram & ORS.V/S State of Rajasthan & Anr.

Date of Order : 16.06.2015 PRESENT HONBLE Mr.JUSTICE VIJAY BISHNOI
(VACATION JUDGE) Mr H.R.Chawla, for petitioneRs.Mr Vikram Singh Rajpurohit,
Public Prosecutor.

Mr R.S.Gill, for respondent No.2.

BY THE COURT :- This criminal misc.

petition under Section 482 Cr.P.C.has been filed by the petitioners with a prayer for quashing the FIR No.557/2011 dated 16.11.2011 of Police Station, Anoopgarh, District Sr.Ganganagar for the offences punishable under Sections 419, 420, 467, 468, 471 and 120-B IPC on the basis of compromise arrived at between the parties.

In the instant case the respondent No.2 has filed a complaint in the Court of Judicial Magistrate, FiRs.Class, Anoopgarh, District Sr.Ganganagar under Section 156(3) Cr.P.C.and the same has been forwarded to the concerned police S.B.CRIMINAL MISC.

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2 station.

The Police Station, Anoopgarh, District Sr.Ganganagar has registered the impugned FIR against the petitioners for the aforesaid offences and started investigation.

During the pendency of investigation the respondent No.2 and the petitioners have compromised the matter and resolved the dispute amicably and on the basis of it, the civil suit pending between them has also been disposed of by the competent court.

Learned counsel for the petitioners has argued that since the dispute has already been amicably settled between the parties and on the basis of it, the civil suit pending between them has also been disposed of by the competent court, the impugned FIR against the petitioners may kindly be quashed.

Learned counsel for the respondent No.2 has conceded that the dispute between the respondent No.2 and petitioners has already been settled and on the basis of it, the civil suit pending between them has also been disposed of by the competent court and the respondent No.2 does not want to get the proceedings continued against S.B.CRIMINAL MISC.

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3 the petitioners. therefore, he has no objection if the impugned FIR is quashed and for this effect a photocopy of compromise deed has already been placed on record.

Heard learned counsel for the parties and perused the material available on record.

It is admitted that the dispute between the parties has already been settled and on the basis of compromise a civil suit between the parties has also been disposed of and the respondent No.2 filed application before the concerned police station with a prayer for quashing the prosecution against the petitioners. Today also learned counsel for the respondent No.2 has categorically submitted that the respondent No.2 does not want to get the proceedings continued against the petitioners and he has no objection if the impugned FIR is quashed as the dispute has already been resolved between the parties.

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:- S.B.CRIMINAL MISC.

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4 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 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 S.B.CRIMINAL MISC.

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5 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-dominatingly 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 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 S.B.CRIMINAL MISC.

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6 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 circumstances of the case and looking to the fact that the dispute between the parties has already been settled and the respondent No.2 does not want to get the proceeding continued against the petitioners. It is a fit case wherein the impugned FIR lodged against the petitioners can be quashed while exercising powers under Section 482 Cr.P.C. In view of the law laid down by the Hon'ble Supreme Court in Gian Singh's case (supra) and in the facts and circumstances as noted above S.B. CRIMINAL MISC.

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7 this criminal misc.

petition is allowed and the FIR No.557/2011 dated 16.11.2011 of Police Station, Anoopgarh, District Sr.Ganganagar for the offence punishable under Sections 419, 420, 467, 468, 471 and 120-B IPC is hereby quashed.

Stay petition is disposed of.

[VIJAY BISHNOI]., V.J. Abhishek 8

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