

Vinod Kumar and Ors Vs. State Nct of Delhi and Ors.

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Court : Delhi

Decided On : Dec-09-2014

Judge : Sudershan Kumar Misra

Appellant : Vinod Kumar and Ors

Respondent : State Nct of Delhi and Ors.

Advocate for Def. : Mr. Amit Ahlawat, Mr. Niwas Sharma

Advocate for Pet/Ap. : Mr. Balvinder Singh

Judgement :

\$~41 * IN THE HIGH COURT OF DELHI AT NEW DELHI + CRL.M.C. 5597/2014
VINOD KUMAR & ORS. Through: Petitioners Mr. Balvinder Singh, Advocates
with petitioners in person. versus STATE NCT OF DELHI &ORS. Respondents
Through: Mr. Amit Ahlawat, APP for the State with Sub Inspector Vishvendra, P.S.
Seemapuri. Mr. Niwas Sharma, Advocate for R-2 to 5 with R-2 to 5 in person.
CORAM: HON'BLE MR. JUSTICE SUDERSHAN KUMAR MISRA %

ORDER

0912.2014 Crl.M.A. No.19099/2014 (for exemption) Exemption, as prayed for, is
allowed, subject to all just exceptions. This application is disposed off. CRL.M.C.
No.5597/2014 1. This petition under Section 482 Cr.P.C. seeks quashing of FIR
No.501/2005, registered under Sections 452/324/323/427/506/34 IPC at police
station Seemapuri on 25th August, 2005, on the ground that the matter has been

settled between the parties.

2. Issue notice. Mr. Amit Ahlawat, Additional Public Prosecutor and Mr. Niwas Sharma, Advocate enter appearance and accept notice on behalf of the State/respondent No.1 and respondent Nos. 2 to 5, respectively.

3. It is stated that the aforesaid FIR came to be lodged at the instance of the complainant as a result of certain altercation that had arisen over some allegedly unpaid dues which escalated into a fight between the petitioners and respondent Nos. 2 to 5. In the incident complainant-Nagraj received a cut on his finger while the other persons also received some minor injuries.

4. After investigation, charge sheet in the matter was filed and charges are also stated to have been framed against the petitioners. The matter is now listed for prosecution evidence.

5. Ultimately, on 15th November, 2014 both the sides are stated to have settled the matter by executing a compromise deed stating therein that they have resolved all their disputes and have no further grievance against each other. The settlement deed has also been annexed to this petition. Counsel for the petitioner states that in addition, petitioners are willing to pay any appropriate sum towards compensation as this Court may direct and also to remain bound by any other directions that may be given in this regard. He has also offered to pay a sum of Rs.25,000/- each to all the complainants towards compensation for the incident.

6. Counsel for respondent Nos. 2 to 5 further states that his clients are also anxious to preserve peace in the locality and want to settle the matter harmoniously since all of them work in the same area where the petitioners are working. Consequently, a sum of Rs.25,000/- in cash has been handed over to each of the respondent Nos. 2 to 5 in the Court today. The said payment is accepted by respondent Nos. 2 to 5 on the aforesaid terms 7. Complainant/respondent No.2 and injured respondent Nos. 3 to 5 approve the aforesaid settlement and state that the aforesaid compensation is acceptable to them in full and final settlement of all their claims and that with this payment they have no further grievance against the petitioners and that they do not wish to

pursue the matter any further and pray that the same be closed.

8. Additional Public Prosecutor appearing for the State submits that looking to the overall circumstances and since the matter has been amicably settled between the parties on terms and the complainant and injured are no longer interested in supporting the prosecution, no useful purpose will be served in continuing the proceedings and the FIRs be quashed, however, subject to payment of appropriate costs.

9. 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 CrI. 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 petitioners as well as complainant and injured have settled the matter on terms as they do not want to further aggravate any animosity. Moreover, the complainant and injured have been duly compensated, and they are no longer interested in supporting the prosecution thereby reducing the chances of its success.

10. Consequently, the petition is allowed, and the FIR No.501/2005, registered under Sections 452/324/323/427/506/34 IPC at police station Seemapuri on 25th August, 2005, and all proceedings emanating therefrom, are hereby quashed, however, subject to a condition that the petitioners shall also furnish bond for good conduct for one year to the satisfaction of ACPcum-Special Executive Magistrate, Seelampuri.

11. The petition stands disposed off.

12. A copy of this order be communicated to ACP-cum-Special Executive Magistrate, Seelampuri forthwith. SUDERSHAN KUMAR MISRA JUDGE
DECEMBER09 2014 AK

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