

Rohit Yadav Vs. The State and Anr.

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Court : Delhi

Decided On : Jul-20-2015

Judge : Sunil Gaur

Appellant : Rohit Yadav

Respondent : The State and Anr.

Advocate for Pet/Ap. : Ms. Nishi Jain, Mr. Karan Bir Singh, Mr. Karan Bir Singh, Mr. Karan Singh

Judgement :

I-20 & 28 * IN THE HIGH COURT OF DELHI AT NEW DELHI Date of Decision:

20. h July, 2015 + CRL.M.C. 2837/2015 & Crl.M.A.No.10142-43/2015 SUBHASH GUPTA & ANR. Through: In person. Petitioners versus THE STATE & ANR. Through: + Respondents Ms. Nishi Jain, Additional Public Prosecutor for respondent-State with ASI Rajneesh Mr. Karan Bir Singh, Advocate for respondent No.2 CRL.M.C. 2852/2015 & Crl.M.A.No.10163-64/2015 ROHIT YADAV Through: Petitioner Mr. Karan Bir Singh, Advocate with petitioner in person versus THE STATE & ANR. Through: Respondents Mr. Karan Singh, Additional Public Prosecutor for respondentState with ASI Rajneesh Respondent in person. CORAM: HON'BLE MR. JUSTICE SUNIL GAUR % Crl.M.C.No.2837/2015 Crl.M.C.No.2852/2015

JUDGMENT

(ORAL) Page 1 In the above captioned first petition, quashing of Criminal Complaint No.627/1, under Sections 380/4230/427/440/506/120-B of the IPC, Rohit Yadav Vs. Subhash Gupta and in the above captioned second petition, quashing of FIR No.194/2012, under Section 448/380 of the IPC, registered at police station Punjabi Bagh, Delhi is sought on the basis of mediated settlement of 23rd January, 2015 reached through Delhi Mediation Centre, Tis Hazari Courts, Delhi (Annexure- P-3). Ms. Nishi Jain, learned Additional Public Prosecutor accepts notice of the above captioned first petition on behalf of respondent No.1-State and submits that respondent No.2-Rohit Yadav present in the Court has been identified to be the complainant of CC No.627/1 on the basis of identity proof furnished by him. Mr. Karan Singh, learned Additional Public Prosecutor accepts notice on behalf of respondent No.1-State in the above captioned second petition and submits that respondent No.2- Ravinder Gupta present in the Court has been identified to be the first-informant of FIR in question on the basis of identity proof furnished by him. Mr. Karna Bir Singh, Advocate, submits that the subject matter of these petitions pertain to landlord-tenant dispute, which stands mutually and amicably resolved between the parties and therefore, these petitions be heard together. In view of above, both these petitions have been heard together and are being disposed of by this common judgment. It is submitted that in terms of settlement, Rohit Yadav has paid a sum of `1,00,000/- in cash to Ravinder Gupta, who has accepted it. CrI.M.C.No.2837/2015 CrI.M.C.No.2852/2015 Page 2 Respondent No.2 -Rohit Yadav in the above captioned first petition and Ravinder Gupta, respondent No.2 in the above captioned second petition, submit that the settlement reached has been fully acted upon and the misunderstanding, which led to registration of complaint and FIR in question, now stands cleared and they affirm the contents of their affidavits placed on record in support of these petitions. They submit that to restore cordiality between the parties, proceedings arising out of these FIRs be brought to an end. In Gian Singh Vs State of Punjab (2012) 10 SCC303 Apex Court has recognized the need of amicable resolution of disputes in cases like the instant one, by observing as under:

Resolution of a dispute by way of a compromise between two warring groups, therefore, should attract the immediate and prompt attention of a court which should endeavour to give full effect to the same unless such compromise is

abhorrent to lawful composition of the society or would promote savagery. Where the High Court quashes a criminal proceeding having regard to the fact that the dispute between the offender and the victim has been settled although the offences are not compoundable, it does so as in its opinion, continuation of criminal proceedings will be an exercise in futility and justice in the case demands that the dispute between the parties is put to an end and peace is restored; securing the ends of justice being the ultimate guiding factor.

The aforesaid dictum stands reiterated by the Apex Court in a Crl.M.C.No.2837/2015 Crl.M.C.No.2852/2015 Page 3 recent judgment in Narinder Singh v. State of Punjab (2014) 6 SCC466 The pertinent observations of the Apex Court in Narinder Singh (supra) are as under: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. Crl.M.C.No.2837/2015 Crl.M.C.No.2852/2015 Page 4 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 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 IPC would fall in the category of heinous and serious offences and therefore are 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 IPC in the FIR or the charge is framed under this provision. It Crl.M.C.No.2837/2015 Crl.M.C.No.2852/2015 Page 5 would be open to the High Court to examine as to whether incorporation of Section 307 IPC 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 IPC. 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 latter 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 Crl.M.C.No.2837/2015 Crl.M.C.No.2852/2015 Page 6 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 to a conclusion as to whether the offence under Section 307 IPC 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 IPC 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.

In view of the fact that the subject matter of these petitions stands mutually and amicably resolved and the misunderstanding between the parties stands cleared, this Court finds that continuance of proceedings Crl.M.C.No.2837/2015 Crl.M.C.No.2852/2015 Page 7 arising out of complaint and FIR in question would be an exercise in futility. Upon deposit of cost of Rupees Ten Thousand each by petitioners of the above captioned two petitions with the Prime Ministers Relief Fund within two weeks and after placing on record receipt of cost within a week, the proceedings arising out of Criminal Complaint No.627/1, under Sections 380/4230/427/440/506/120-B of the IPC, Rohit Yadav Vs. Subhash Gupta [in Crl.M.C.No.2837/2015]. and FIR No.194/2012, under Section 448/380 of the IPC, registered at police station Punjabi Bagh, Delhi [in Crl.M.C.No.2852/2015]. shall stand quashed. The above captioned two petitions are disposed of in aforesaid terms. Dasti. (SUNIL GAUR) JUDGE JULY20 2015 r Crl.M.C.No.2837/2015 Crl.M.C.No.2852/2015 Page 8