

Manish Vs. State and Anr

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Court : Rajasthan Jodhpur

Decided On : Aug-10-2015

Appellant : Manish

Respondent : State and Anr

Judgement :

S.B.CRIMINAL MISC.

PETITION NO.1410/2015 Manish Maheshwari & ORS.V/S The State of Rajasthan & Anr.

1 IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

ORDER

S.B.CRIMINAL MISC.

PETITION NO.1410/2015 Manish Maheshwari & ORS.V/S The State of Rajasthan & Anr.

Date of Order : 10.08.2015 PRESENT HONBLE MR.JUSTICE VIJAY BISHNOI
Mr.Rahul Soni, for the petitioneRs.Mr.Vikram Rajpurohit, Public Prosecutor.

Mr.J.K.Gehlot, for the respondent No.2.

Mr.Manish Maheshwari-petitioner No.1].present Ms.Madhu Maheshwari-respondent No.2].in person.

BY THE COURT :- Heard learned counsel for the parties.

Learned counsel for the petitioners has moved an application (Crl.

Misc.

Appl.

No.666/2015) for impleading the accused persons viz.

Gopikishan, Smt.Sudha and Smt.Saroj as petitioners in this misc.

petition.

For the reasons stated in the application (Crl.

Misc.

Appl.

No.666/2015).the same is allowed.

It is hereby directed that the accused persons viz.

Gopikishan, Smt.Sudha and Smt.Saroj are impleaded as petitioner Nos.2, 3 and 4 in S.B.CRIMINAL MISC.

PETITION NO.1410/2015 Manish Maheshwari & ORS.V/S The State of Rajasthan & Anr.

2 this misc.

petition.

Amended cause title already filed be taken on record.

With the consent of learned counsel for the parties, the matter is heard finally.

This Criminal Misc.

Petition under Section 482 Cr.P.C.has been filed by the petitioners with a prayer for quashing the FIR No.196/2014 dated 02.12.2014 of Women (West) Police Station, District Jodhpur for the offences punishable under Sections 498-A, 406 and 323 IPC on the basis of compromise arrived at between the parties.

It is submitted by learned counsel for the petitioners that on the complaint filed on behalf of the respondent No.2 before the competent court the impugned FIR was registered and the proceedings under Section 498-A, 406 and 323 IPC were pending against the petitioners.It is further contended by learned counsel for the petitioners that the respondent No.2 and the petitioners have compromised the matter and resolved the matrimonial dispute between them amicably and on the basis of compromise the petitioner No.1 and the respondent No.2 have S.B.CRIMINAL MISC.

PETITION NO.1410/2015 Manish Maheshwari & ORS.V/S The State of Rajasthan & Anr.

3 decided to live separately by mutual consent and filed application under Section 13-B of Hindu Marriage Act, 1955 and the same is pending adjudication before the concerned family court.

Learned counsel for the petitioners has argued that since the matrimonial dispute has already been amicably settled between the parties the impugned FIR lodged against the petitioners may kindly be quashed.

Learned counsel for the respondent No.2 has conceded that the matrimonial dispute between the respondent No.2 and the petitioners has already been settled and on the basis of compromise the petitioner No.1 and the respondent No.2 have decided to live separately by mutual consent and the respondent No.2 has no objection if the impugned FIR lodged against the petitioners is quashed .

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

It is admitted that the matrimonial dispute between the parties have already been settled amicably and on the basis of compromise the petitioner No.1 and the respondent No.2 have S.B.CRIMINAL MISC.

PETITION NO.1410/2015 Manish Maheshwari & ORS.V/S The State of Rajasthan & Anr.

4 decided to live separately by mutual consent and filed application under Section 13-B of Hindu Marriage Act, 1955 and the same is pending adjudication before the concerned family court.

Today also learned counsel for the respondent No.2 has categorically submitted that the respondent No.2 has no objection if the impugned FIR lodged against the petitioners is quashed as the matrimonial 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:- 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 S.B.CRIMINAL MISC.

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5 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 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, S.B.CRIMINAL MISC.

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6 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 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.

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7 Having considered the facts and circumstances of the case and looking to the fact that the matrimonial dispute between the parties have already been settled amicably and on the basis of compromise the petitioner No.1 and the respondent No.2 have decided to live separately by mutual consent and in pursuance of that application under Section 13-B of Hindu Marriage Act is also pending before the concerned family court, 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 this criminal misc.

petition is allowed and the FIR No.196/2014 dated 02.12.2014 of Women (West) Police Station, District Jodhpur for the offences punishable under Sections 498-A, 406 and 323 IPC is hereby quashed.

Stay petition is disposed of.

[VIJAY BISHNOI].,J.

ms rathore / Abhishek Item No.22

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