

Amar Singh Vs. State and Anr

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Court : Rajasthan Jodhpur

Decided On : Sep-22-2015

Appellant : Amar Singh

Respondent : State and Anr

Judgement :

S.B.CRIMINAL MISC.

PETITION NO.1670/2015 Amar Singh V/S State of Rajasthan & Anr.

1 IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

ORDER

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Date of order : 22.09.2015 PRESENT HON'BLE Mr.JUSTICE VIJAY BISHNOI Mr Vineet Jain, for petitioner.

Mr O.P.Rathi, Public Prosecutor.

Mr Bharat Shrimali, for respondent No.2.

BY THE COURT:- This criminal misc.

petition under Section 482 Cr.P.C.has been preferred by the petitioner with the prayer for quashing the proceedings pending against him before Additional Chief Metropolitan Magistrate No.1, Jodhpur Metropolitan (hereinafter referred to as 'the trial court') in Criminal Regular Case No.71/2015 (State of Rajasthan versus Amar Singh).whereby the trial court vide order dated 15.06.2015 has attested the compromise for the offence punishable under Section 420 IPC but refused to attest the compromise for the offences punishable under Sections 384, 467, 467 S.B.CRIMINAL MISC.

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2 and 471 IPC as the same are not compoundable.

Brief facts of the case are that in the instant case the respondent No.2 has filed a complaint in the trial court and the same is forwarded to the Police Station, Ratanada, District Jodhpur.

After investigation, the police has filed charge-sheet against the petitioner for offences punishable under Sections 420, 384, 467, 468 and 471 IPC in the trial court wherein the trial is pending against the petitioner for the aforesaid offences.

During the pendency of the trial, an application was preferred on behalf of the petitioner as well as the respondent No.2 while stating that both the parties have entered into compromise and, therefore, the proceedings pending against the petitioner may be terminated.

The trial court vide order dated 15.06.2015 allowed the parties to compound the offence punishable under Section 420 IPC, however, rejected the application so far it relates to compounding the offences punishable under Sections 384, 467, 467 and 471 IPC.

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3 The present criminal misc.

petition has been preferred by the petitioner for quashing the said proceedings against him.

The learned counsel for the petitioner has argued that as the complainant-respondent No.2 and the petitioner have already entered into compromise and on the basis of it, the petitioner has been acquitted for the offence punishable under Section 420 IPC, there is no possibility of conviction of the petitioner for the offences punishable under Sections 384, 467, 467 and 471 IPC.

It is also contended by learned counsel for the petitioner that on the basis of the compromise arrived at between the petitioner and the respondent No.2, the petitioner has been enlarged on bail by a Coordinate Bench of this Court vide order dated 09.09.2015 passed in S.B.Criminal Misc.

Fourth Bail Application No.8089/2015 (Amar Singh versus State of Rajasthan).It is also argued that no useful purpose would be served by continuing the trial against the petitioner for the offences punishable under Sections 384, 467, 467 and 471 S.B.CRIMINAL MISC.

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4 IPC because the same may derail the compromise arrived at between the parties.

The learned counsel for the respondent No.2 has admitted that the parties have already entered into compromise and the respondent No.2 does not want to press the charges levelled against the petitioner in relation to offences punishable under Sections 384, 467, 467 and 471 IPC.

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 S.B.CRIMINAL MISC.

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5 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 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-dominantly S.B.CRIMINAL MISC.

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6 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 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 S.B.CRIMINAL MISC.

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7 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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Having considered the facts and circumstances of the case and looking to the fact that the petitioner and respondent No.2 have entered into compromise by mutual consent and on the basis of it the petitioner has been enlarged on bail by this Court vide order dated 09.09.2015, there is no possibility of accused- petitioner being convicted in the case pending against him.

When once the disputes have been settled by the mutual compromise, then no useful purpose would be served by keeping the criminal proceedings pending.

Keeping in view the observations made by the Hon'ble Supreme Court in Gian Singh's case (supra).this Court is of the opinion that it is a fit case, wherein the criminal proceedings pending against the petitioner can be quashed

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8 while exercising powers under Section 482 Cr.P.C.Accordingly, this criminal misc.

petition is allowed and the criminal proceedings pending against the petitioner before the Additional Chief Metropolitan Magistrate No.1, Jodhpur Metropolitan in Criminal Regular Case No.71/2015 (State of Rajasthan versus Amar Singh) are hereby quashed.

[VIJAY BISHNOI]., J.

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