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Lalit Kumar Vs. State and Anr

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Court : Rajasthan Jodhpur

Decided On : Sep-24-2015

Appellant : Lalit Kumar

Respondent : State and Anr

Judgement :

S.B.CRIMINAL MISC.

PETITION NO.2511/2015 Lalit Kumar Regar V/S State of Rajasthan & Anr.

1 IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

ORDER

S.B.CRIMINAL MISC.

PETITION NO.2511/2015 Lalit Kumar Regar V/S State of Rajasthan & Anr.

Date of Order : 24.09.2015 PRESENT HONBLE MR.JUSTICE VIJAY BISHNOI Mr S.K.Verma, for petitioner.

Mr Vikram Singh Rajpurohit, Public Prosecutor.

Mr Deepak Agarwal, for respondent No.2.

BY THE COURT :- This Criminal Misc.

Petition under Section 482 Cr.P.C.has been filed by the petitioner for quashing the proceedings pending against him before the Judicial Magistrate No.3, Bikaner (hereinafter referred to as 'the trial court') in Criminal Case No.60/2013 (State V/s.

Lalit Kumar).whereby the trial court vide order dated 24.07.2015 has refused to attest the compromise for the offence punishable under Section 498-A IPC as the same is not compoundable.

Brief facts of the case are that on a complaint filed at the instance of respondent No.2 before the trial court the same has been S.B.CRIMINAL MISC.

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2 forwarded to the concerned police station.

After investigation, the police filed charge-sheet against the petitioner for offence punishable under Section 498-A IPC in the trial court wherein the trial is pending against the petitioner for the aforesaid offence.

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 are living together happily and, therefore, the proceedings pending against the petitioner may be terminated.

The trial court vide order dated 24.07.2015 has refused to attest the compromise for the offence punishable under Section 498-A IPC.

The present criminal misc.

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

The learned counsel for the petitioner has argued that as the respondent No.2 and the petitioner have already entered into compromise and on the basis of it, the petitioner and the S.B.CRIMINAL MISC.

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3 respondent No.2 are living together happily, there is no possibility of conviction of the petitioner for the offence punishable under Section 498-A IPC.

It is also argued that no useful purpose would be served by continuing the trial against the petitioner for the offence punishable under Section 498-A 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 decided to live together and the respondent No.2 does not want to press the charges levelled against the petitioner in relation to offence punishable under Section 498-A IPC.

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

It is now admitted that the matrimonial dispute between the parties has already been settled and the respondent No.2 filed an application before the trial court with a prayer for quashing the prosecution against the S.B.CRIMINAL MISC.

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4 petitioner.

Today also learned counsel for the respondent No.2 has categorically submitted that the respondent No.2 does not want to continue the proceedings pending against the petitioner for the offences punishable under Section 498-A IPC as the matrimonial dispute has already been resolved between the parties and the petitioner and the respondent No.2 are living together happily.

A certified copy of compromise has already been placed on record.

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 S.B.CRIMINAL MISC.

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5 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 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 S.B.CRIMINAL MISC.

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6 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 compromise between the victim and wrongdoer and whether to secure the ends of justice, it is S.B.CRIMINAL MISC.

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7 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 settled their dispute and live together happily and the respondent No.2 does not want to press the charges pending against the petitioner, there is no possibility of accused- petitioner being convicted in the case pending against him.

When once the matrimonial 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 while exercising powers under Section 482 Cr.P.C.S.B.CRIMINAL MISC.

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8 Accordingly, this criminal misc.

petition is allowed and the criminal proceedings pending against the petitioner before the Judicial Magistrate No.3, Bikaner in Criminal Case No.60/2013 (State V/s.

Lalit Kumar) are hereby quashed.

Stay petition is disposed of.

[VIJAY BISHNOI].,J.

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