

Rashid Khan Vs. State and Anr

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Court : Rajasthan Jodhpur

Decided On : Dec-05-2014

Appellant : Rashid Khan

Respondent : State and Anr

Judgement :

S.B.CRIMINAL MISC.

PETITION NO.1423/2014 Rashid Khan V/S State of Rajasthan & Anr.

1 THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

ORDER

S.B.CRIMINAL MISC.

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Date of Order : 05.12.2014 PRESENT HONBLE MR.JUSTICE VIJAY BISHNOI
Mr.M.K.Garg, for petitioner.

Mr.Vikram Rajpurohit, Public Prosecutor.

Mr.Mahesh Seni for Mr.Ravindra Singh, for respondent No.2.

BY THE COURT :- This Criminal Misc.

Petition under Section 482 Cr.P.C. has been filed by the petitioner with a prayer for quashing the FIR No.32/2014 dated 27.03.2014 of Police Station, Ghantaghar, District Udaipur for the offences punishable under Sections 147, 148, 149, 323 and 365 IPC.

Brief facts of the case are that on a complaint lodged at the instance of respondent No.2, the Police Station, Ghantaghar, District Udaipur on 27.03.2014 has registered an FIR No.32/2014 against the petitioner and investigation thereof is going on.

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2 It is contended by learned counsel for the petitioner that the respondent No.2 and the petitioner have compromised the matter and solved the dispute between them amicably.

Learned counsel for the petitioner has argued that since the dispute has already been amicably settled between the parties the FIR No.32/2014 dated 27.03.2014 of Police Station, Ghantaghar, District Udaipur for the offences punishable under Sections 147, 148, 149, 323 and 365 IPC against the petitioner may kindly be quashed.

Learned counsel for the respondent No.2 has conceded that the dispute between the respondent No.2 and petitioner has already been settled.

Pursuant to the direction given by this Court on 21.11.2014, compromise entered between the parties have been verified by the Investigating Officer, who is conducting investigation into the allegations levelled in the FIR No.32/2014 dated 27.03.2014 of Police Station, Ghantaghar, District Udaipur.

The factual report dated 30.11.2014 of this effect has submitted by learned Public Prosecutor on 01.12.2014 and the same is S.B.CRIMINAL MISC.

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3 placed on record.

Heard learned counsel for the parties as well as the learned Public Prosecutor and perused the material available on record.

It is not in dispute that the dispute between the parties have already been settled amicably and the same have been verified by the Investigating Officer.

Today also learned counsel for the respondent No.2 has categorically submitted that the respondent No.2 does not want to press the allegations levelled in the FIR No.36/2014 dated 10.02.2014 of Police Station Rajnagar, District Rajsamand for the offences punishable under Sections 420, 406, 467, 468 and 120-B IPC as the 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 S.B.CRIMINAL MISC.

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4 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 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 S.B.CRIMINAL MISC.

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5 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, 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 S.B.CRIMINAL MISC.

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6 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.

Having considered the facts and circumstances of the case and looking to the fact that the dispute between the parties have already been settled amicably and the respondent No.2 does not want to press the allegations levelled in the impugned FIR, it is a fit case wherein the FIR No.32/2014 dated 27.03.2014 of Police Station, Ghantaghar, District Udaipur for the offences punishable under Sections 147, 148, 149, 323 and 365 IPC can be quashed.

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.32/2014 dated 27.03.2014 of Police Station, Ghantaghar, S.B.CRIMINAL MISC.

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7 District Udaipur for the offences punishable under Sections 147, 148, 149, 323 and 365 IPC is hereby quashed.

Stay petition is disposed of.

[VIJAY BISHNOI].,J.

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