

Santosh Kumar Yadav And Ors Vs State Of Chhattisgarh And Ors

Court: Chhattisgarh High Court

Date of Decision: Feb. 7, 2018

Acts Referred: Indian Penal Code, 1860 " Section 34, 498A
Code Of Criminal Procedure, 1973 " Section 320, 482

Hon'ble Judges: Goutam Bhaduri, J

Bench: Single Bench

Advocate: B.P. Singh, Astha Shukla, K.R. Loniya

Final Decision: Allowed

Judgement

Goutam Bhaduri, J

1. The instant petition is against the order dated 27.11.2017, passed by the JMFC, Durg in criminal case No.860/2015 whereby an application filed

under Section 320 of the Cr.P.C. to compound the offence under Section 498-A read with Section 34 of the I.P.C. has been dismissed.

2. The complainant Smt Kanchan Yadav, respondent No.2 herein was married with Santosh Kumar Yadav on 23.01.2013 and thereafter a report was

made by the complainant in the Police Station Nevai, which was registered under Section 498-A read with Section 34 of the I.P.C. bearing Crime

No.152/2014. Thereafter, after the investigation, the charge-sheet was filed. During the course of trial an application was filed by the petitioners as

also the complainant, whereby it was pleaded that mutual settlement has been arrived at in between the parties and the application for mutual divorce

has also been filed.

3. The Hon'ble Supreme Court in Gian Singh v. State of Punjab & Another (2012) 10 SCC 303 has laid down the following principles :

61. 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 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 victim's 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 predominatingly 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 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.

4. The Hon'ble Supreme Court in B.S. Joshi & Ors. v. State of Haryana & Anr. (2003) 4 SCC 675 has held as under :

14. There is no doubt that the object of introducing Chapter XX-A containing Section 498A in the Indian Penal Code was to prevent the torture to a

woman by her husband or by relatives of her husband. Section 498A was added with a view to punishing a husband and his relatives who harass or

torture the wife to coerce her or her relatives to satisfy unlawful demands of dowry. The hyper- technical view would be counter productive and

would act against interests of women and against the object for which this provision was added. There is every likelihood that non-exercise of inherent

power to quash the proceedings to meet the ends of justice would prevent women from settling earlier. That is not the object of Chapter XXA of

Indian Penal Code.

In view of the above discussion, we hold that the High Court in exercise of its inherent powers can quash criminal proceedings or FIR or complaint

and Section 320 of the Code does not limit or affect the powers under Section 482 of the A, Code.

5. The principles laid down by the Supreme Court clearly leads to an irresistible conclusion that a dispute which arise out of a matrimonial nature

where the wrong is basically private or personal in nature and parties have resolved their entire dispute, the High Court may quash the criminal

proceedings. If the High Court finds it to be unfair and contrary to the interest of justice to continue with the criminal proceeding despite settlement

and compromise between the victim and the wrongdoer and make put to an end to the criminal case.

6. Complainant Smt. Kanchan Yadav is present before the Court, she having been asked by the State counsel expressed that the entire amount of the

settlement has been received by her and the application for mutual divorce is already pending, therefore, she do not want to prosecute the criminal

case No.860/15 arising out of crime No.152/2014 at Police Station Nevai, District Durg. Statement of the victim shows that she has compounded the

offence and she do not want further action against the petitioners.

7. Considering the same and in view of the principles laid down by the Supreme Court, it would be in the interest of justice to quash the proceedings

which are pending before the criminal Court under Section 498- A read with Section 34 of the I.P.C. in criminal case No.860/15. Accordingly, the

charges leveled against the petitioners under Section 498- A read with Section 34 of the I.P.C. are quashed. The petitioners are acquitted of the

charges leveled against them.

8. Accordingly, the CRMP stands allowed.