

Kunal Tyagi And Another Vs State Of Himachal Pradesh And Another

Court: High Court Of Himachal Pradesh

Date of Decision: March 28, 2024

Acts Referred: Code Of Criminal Procedure, 1973 " Section 320, 482
Indian Penal Code, 1860 " Section 34, 323, 452

Hon'ble Judges: Bipin Chander Negi, J

Bench: Single Bench

Advocate: Abhinav Mehta, B.N. Sharma, Gurdev Negi, Abhishek Raj

Final Decision: Allowed/Disposed Of

Judgement

Bipin Chander Negi, J

1. Sub Inspector Shiv Kumar, is present alongwith record. Status report stands filed, copy whereof, has been supplied to learned counsel for the

parties. The same is taken on record.

2. By way of instant petition filed under Section 482 of the Code of Criminal Procedure, a prayer has been made on behalf of the petitioners for

quashing of FIR No.195/23 dated 04.10.2023, under Sections 323, 452, 34 of the Indian Penal Code, registered at Police Station, Dhalli, District

Shimla, H.P., as well as consequent judicial proceedings pending before learned Additional Chief Judicial Magistrate, Court No.3, Shimla, H.P., in

Police Challan No.354/2023, titled State of HP vs. Kunal Tyagi and another.

3. As per the averments contained in the petition, which is duly supported by an affidavit reveals that on 04.10.2023, respondent No.2 had got a FIR

registered against the petitioners under Sections 452, 323 & 34 of the Indian Penal Code. As a sequel thereto, Challan has been presented before

learned Additional Chief Judicial Magistrate, Court No.3, Shimla, H.P. However, during the pendency of proceedings, the dispute inter se parties has

been settled amicably vide Compromise Deed dated 29.02.2024, copy whereof, is appended alongwith the present petition as Annexure P-2. The

Compromise Deed has been entered into at the intervention of elder relatives and respectable member of the society with intent to settle the dispute

inter se parties.

4. Statement of respondent No.2/complainant stands recorded. He has categorically stated that he has entered into compromise of his own free will,

volition and without any pressure. According to respondent No.2/complainant, the dispute inter se parties stands amicably settled.

5. I have heard learned counsel for the parties and perused the record carefully.

6. This Court sees no impediment in quashing the FIR in issue, as the dispute inter se the parties stands amicably resolved.

7. From a perusal of Section 320 of the Code of Criminal Procedure, it is evident that in so far as Section 323 of the Indian Penal Code is concerned,

the same is compoundable. However, Section 452 of the Indian Penal Code is cognizable and non-bailable offence, which is not compoundable.

8. In this respect, attention of this Court has been drawn to case titled Narinder Singh and others vs. State of Punjab and another reported as (2014) 6

Supreme Court Cases, 466, wherein the Apex Court has categorically laid down that the High Court has inherent power to quash the criminal

proceedings even in those cases, which are not compoundable, where the parties have amicably settled the matter inter se them. However, this power

is to be exercised sparingly and with caution, in cases where settlement is arrived at. The guiding factors being securing the ends of justice are to

prevent an abuse of the process of any Court.

9. In view of the fact that the parties have entered into compromise permitting the proceedings in pursuance to the aforesaid FIR sought to be quashed

to continue would only result into an abuse of process and the same would not secure the ends of justice.

10. Accordingly, the petition is allowed. FIR No.195/23 dated 04.10.2023, under Sections 323, 452, 34 of the Indian Penal Code, registered at Police

Station, Dhalli, District Shimla, H.P., is quashed and consequential judicial proceedings pending before learned Additional Chief Judicial Magistrate,

Court No.3, Shimla, H.P., in Police Challan No.354/2023, titled State of HP vs. Kunal Tyagi and another, are also quashed.

11. The petition stands disposed of in the above terms, so also the pending application(s), if any.