
Kanwar Charanjit Singh Vs State of Himachal Pradesh

Cr. MMO No. 97 of 2014

Court: High Court of Himachal Pradesh

Date of Decision: July 4, 2014

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) " Section 173, 320, 482#Penal Code, 1860 (IPC) " Section 186, 189, 341, 451

Hon'ble Judges: Dharam Chand Chaudhary, J

Bench: Single Bench

Advocate: Anoop Chitkara, Advocate with Neha Scott, Advocate for the Appellant; D.S. Nainta and Virender Verma, Additional Advocates General, Advocate for the Respondent

Final Decision: Disposed Off

Judgement

Dharam Chand Chaudhary, J.

The petitioner is an accused in FIR No. 58 of 2008, registered under Sections 451, 341, 186 and 189 of

the Indian Penal Code, in Police Station, Amb, District Una. Allegations, in nutshell, as disclosed from the record available, at this stage, against

him, are that on 20.3.2008, around 2.30 p.m., he locked the door of the room allotted to Shri Bir Singh Tang, the then Dy. S.P., 3rd Battalion,

Pandoh, District Mandi, the complainant. The incident is of those days when fair of Baba Barbhag Singh at village Mairi, Tehsil Amb, District Una,

was going on and the complainant being a Police Officer, was deployed there during the fair to maintain law and order. He was provided

accommodation in the office premises adjoining to the office of the Manager of Baba Barbhag Singh Gurdwara, Mairi.

2. On 20.3.2008, after having his meal and taking stock of the law and order situation, when he returned to the room, found the same locked from

inside. On enquiry, it transpired that the door was locked by the accused-petitioner. The matter was reported to the police of Police Station, Amb

by the complainant. Consequently, the aforesaid case came to be registered against the accused-petitioner in the Police Station. It is, thereafter the

Investigating Officer visited the spot and arranged to open the room.

3. It is seen that report u/s 173 of the Code of Criminal Procedure in this matter stands filed in the Court. The case is, however, at initial stage, as

only the process has been ordered to be issued against the accused-petitioner. This petition has been filed with a prayer to order to quash the FIR

registered against the accused-petitioner on the grounds that with the passage of time both parties have joined hands and the complainant is no

more interested to prosecute the case any further. In order to strengthen the submissions so made in the petition, deed of compromise Annexure

A-2 and affidavit of the complainant Annexure A-3 have been placed on record of this petition. It is seen that the offence punishable under

Sections 341 and 451 of the Indian Penal Code is compoundable u/s 320 of the Code of Criminal Procedure, however, the offence punishable

under Sections 186 and 189 of the Indian Penal Code is not compoundable. This legal impediment in compounding of offence has necessitated the

accused-petitioner to file the present petition for quashing of the FIR.

4. The complainant is present in the Court. His statement has been recorded separately. He on seeing his signature on the deed of compromise and

also affidavit, has admitted the same to be that of his signatures.

5. It is well settled, at this stage, that the criminal proceedings normally should not be throttled down at its initial stage. The criminal proceedings

can be quashed only under the following circumstances:

(1) where the allegations made in complaint or the statement of the witnesses recorded in support of the same taken at their face value make out

absolutely no case against the accused or the complaint does not disclose the essential ingredients of an offence which is alleged against the

accused;

(2) where the allegations made in the complaint are patently absurd and inherently improbable so that no prudent person can ever reach a

conclusion that there is sufficient ground for proceeding against the accused;

(3) where the discretion exercised by the Magistrate in issuing process is capricious and arbitrary having been based either on no evidence or on

materials which are wholly irrelevant or inadmissible; and

(4) where the complaint suffers from fundamental legal defects, such as, want of sanction, or absence of a complaint by legally competent authority

and the like.

6. However, in view of the fact that with the passage of time the relations between the complainant and the accused become cordial and the

complainant is not only a party to the deed of compromise Annexure A-2, but also sworn-in an affidavit Annexure A-3 stating therein that the FIR

against the accused-petitioner may be quashed, the present is a case where in view of the subsequent development, i.e., the parties having settled

the matter amicably no useful purpose is likely to be served to allow the proceedings against the accused-petitioner to continue because in the

changed circumstances the trial in all probabilities is likely to be ended in acquittal.

7. The Apex Court in Gian Singh Vs. State of Punjab and Another, has allowed the quashing of FIR in a case of this nature. It has been held in this

judgment that the High Court in exercise of inherent powers vested in it u/s 482 of the Code of Criminal Procedure, may quash the FIR in such

cases where the offence allegedly committed though is not compoundable where the victim and the accused have settled the dispute amicably, of

course, in appropriate cases having arisen out of civil, mercantile, commercial, financial, partnership or suchlike transactions, matrimonial or relating

to dowry etc. in which the wrong basically is done to the victim. It has further been held in this judgment that the High Court should not exercise

such jurisdiction in the cases pertaining to the commission of an offence like rape, dacoity and corruption etc. having wider repercussions in the

society as a whole. This judgment reads as follows:-

58. Where High Court quashes a criminal proceeding having regard to the fact that dispute between the offender and victim has been settled

although offences are not compoundable, it does so as in its opinion, continuation of criminal proceedings will be an exercise in futility and justice in

the case demands that the dispute between the parties is put to an end and peace is restored; securing the ends of justice being the ultimate guiding

factor. No doubt, crimes are acts which have harmful effect on the public and consist in wrong doing that seriously endangers and threatens well-

being of society and it is not safe to leave the crime-doer only because he and the victim have settled the dispute amicably or that the victim has

been paid compensation, yet certain crimes have been made compoundable in law, with or without permission of the Court. In respect of serious

offences like murder, rape, dacoity, etc; or other offences of mental depravity under IPC or offences of moral turpitude under special statutes, like

Prevention of Corruption Act or the offences committed by public servants while working in that capacity, the settlement between offender and

victim can have no legal sanction at all. However, certain offences which overwhelmingly and predominantly bear civil flavour having arisen out of

civil, mercantile, commercial, financial, partnership or such like transactions or the offences arising out of matrimony, particularly relating to dowry,

etc. or the family dispute, where the wrong is basically to victim and the offender and victim have settled all disputes between them amicably,

irrespective of the fact that such offences have not been made compoundable, the High Court may within the framework of its inherent power,

quash the criminal proceeding or criminal complaint or F.I.R. if it is satisfied that on the face of such settlement, there is hardly any likelihood of

offender being convicted and by not quashing the criminal proceedings, justice shall be casualty and ends of justice shall be defeated. The above

list is illustrative and not exhaustive. Each case will depend on its own facts and no hard and fast category can be prescribed.

8. In the case in hand, the wrong allegedly committed is personal to the complainant because the accused-petitioner locked the door of the room,

which was provided to the complainant for residential purpose during the course of his temporary deployment on Mela duty at Mairi. The

complainant with the passage of time is no more interested to prosecute the matter against the accused-petitioner. The offence, he committed, no

doubt, is not compoundable either by the complainant or with the permission of the Court. However, keeping in view the settlement arrived at

between the accused-petitioner and complainant, this case is covered by the ratio of judgment of Hon"ble Apex Court in Gian Singh"s case cited

supra. Therefore, in view of such subsequent development in all probabilities the trial is likely to be ended in acquittal and no useful purpose is

likely to be served by allowing the criminal proceedings pending disposal against the accused-petitioner to continue. This petition is, therefore,

allowed. Consequently, FIR No. 58 of 2008, registered at Police Station, Amb, is quashed and the consequential proceedings arising out of the

same, i.e., Case No. 177-01-08 pending disposal in the Court of learned Additional Chief Judicial Magistrate at Amb, is ordered to be closed.

9. In view of the above this petition stands disposed of finally. Pending application(s), if any shall also stand disposed of.