

SUPREME COURT OF INDIA

Dimpey Gujral W/o.Vivek Gujral

Vs.

Union Territory Through Administratator, U.T. Chandigarh

(Aftab Alam and Ranjana Prakash Desai JJ.)

06.12.2012

JUDGMENT

(SMT.) RANJANA PRAKASH DESAI, J.

1. In this petition filed under Section 406 of the Code of Criminal Procedure 1973 (for short, “the Code”), the petitioners have prayed that Criminal Case bearing S.C.No.121 of 2011 pending in the Court of J.S. Sidhu, Chief Judicial Magistrate, Chandigarh arising out of FIR No.163 dated 26/10/2006 under Sections 147, 148, 149, 323, 307, 452, 506 of the Indian Penal Code (for short, “the IPC”), be transferred to the Court of competent jurisdiction at New Delhi.

2. Petitioner 1 is a fashion designer and is a resident of Chandigarh. Petitioners 2 and 3 are the daughters of petitioner 1. Respondent 2 is the complainant. He is residing in the neighborhood of petitioner 1 and is the son of a retired Judge of the High Court.

3. From the facts disclosed in the petition and as communicated to us by learned counsel for the parties, it is apparent that the petitioners and the complainant are educated and respectable citizens, who enjoy high social status. Certain unfortunate incidents relating to pet dogs of the petitioners have dragged them to this court. These incidents took ugly turn which resulted in the lodging of FIR No.163 dated 26/10/2006 under Sections 147, 148, 149, 323, 307, 452 and 506 of the Indian Penal Code at Police Station Sector 3, Chandigarh by the complainant. Since the offences involved in this case are of a personal nature and are not offences against the society, we had enquired with learned counsel appearing for

the parties whether there is any possibility of a settlement. We are happy to note that due to efforts made by learned counsel, parties have seen reason and have entered into a compromise. In view of the compromise, we do not wish to narrate the facts of the case. Counsel for the petitioners has filed an application praying for quashing of the said FIR and all consequential proceedings arising therefrom including the final report presented under Section 173 of the Code and charges framed by the trial court. To this application is annexed a compromise deed, which is duly signed by the complainant, his wife, the petitioners and respondents 3, 4 and 5. Paragraph 5 of the compromise deed reads thus:

“5. That both the parties agree and assure that henceforth, they would maintain healthy relationship with each other while garnering no ill will or malice against each other. Both the parties have resolved to accord quietus to the proceedings relating to the incident. Both the parties reiterate that there remains no acrimony/grudge between them.”

4. The question which now remains to be answered is whether since one of the offences alleged in the FIR is non-compoundable, the FIR could be quashed. In certain decisions of this court in view of the settlement arrived at by the parties, this court quashed the FIRs though some of the offences were non-compoundable. A two Judges' Bench of this court doubted the correctness of those decisions. Learned Judges felt that in those decisions, this court had permitted compounding of non-compoundable offences. The said issue was, therefore, referred to a larger bench. The larger Bench in *Gian Singh v. State of Punjab* Anr. in SLP (Cri.) No.8989 of 2010 along with other connected matters, decided on 24/09/2012, considered the relevant provisions of the Code and the judgments of this court and concluded as under:

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 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 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 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.

5. In light of the above observations of this court in Gian Singh, we feel that this is a case where the continuation of criminal proceedings would tantamount to abuse of process of law because the alleged offences are not heinous offences showing extreme depravity nor are they against the society. They are offences of a personal nature and burying them would bring about peace and amity between the two

sides. In the circumstances of the case, FIR No.163 dated 26/10/2006 registered under Section 147, 148, 149, 323, 307, 452 and 506 of the IPC at Police Station Sector 3, Chandigarh and all consequential proceedings arising therefrom including the final report presented under Section 173 of the Code and charges framed by the trial court are hereby quashed.

6. Before parting, we record our appreciation for the efforts made by learned counsel to accord a quietus to the dispute. We also appreciate the conduct of the parties who have agreed to bury the past and turn a new leaf.

7. The petition is disposed of in the aforestated terms.