

SUPREME COURT OF INDIA

Yogendra Yadav

Vs.

State of Jharkhand

Crl.A.No.1205 of 2014

(Ranjana Prakash Desai and N.V. Ramana JJ.)

21.07.2014

JUDGMENT

(SMT.) RANJANA PRAKASH DESAI, J.

1. The appellants are original Accused Nos.1 to 3 respectively in P.S. Meharma Case No.155 of 2004 registered under Sections 341, 323, 324, 504 and 307 read with Section 34 of the Indian Penal Code (for short, ~the IPC). The FIR was lodged on 23/09/1994 by complainant Anil Mandal alleging that the appellants assaulted him and his men on 22/09/2004. On the same day the appellants also filed FIR in respect of the same incident dated 22/09/2004 alleging that complainant Anil Mandal, Baldev Mandal and others assaulted them. This FIR was registered at P.S. Meharma being Case No.156 of 2004 under Sections 147, 148, 149, 448, 341, 323 and 380 of the IPC.

2. In both the cases, after investigation, charge-sheet was submitted. While the cases were going on before the 2nd Additional Sessions Judge, Godda, both the parties agreed to compromise the cases. A Panchayat was held where with the intervention of the well-wishers a compromise was arrived at. A compromise petition dated 16/11/2011 was signed by both the parties and it was filed in the Court of 2nd Additional Sessions Judge, Godda. An application was filed under Section 231(2) read with Section 311 of the Code of Criminal Procedure, 1973 (for short, ~the Code) being S.C. No. 9/05 for recalling PWs 1 to 6 for further cross-examination on the point of compromise.

3. Learned Additional Sessions Judge by his order dated 16/11/2011 disposed of the said application. Learned Additional Sessions Judge observed that compromise petition was signed by the informant and the injured, their signatures were identified by the lawyers and, therefore, the compromise was genuine. He, however, observed that offences under Sections 324, 341, 323 of the IPC are compoundable with the permission of the court and offences under Sections 326, 307 read with Section 34 of the IPC are non-compoundable. He, therefore, accepted the application in respect of offences under Sections 323, 324 and 341 of the IPC. The said offences were compounded and the accused were acquitted of the same. Prayer for compounding of offences under Sections 326, 307 read with Section 34 of the IPC was rejected. Learned Additional Sessions Judge rejected the application for recalling of witnesses. He directed that the case should proceed against the accused for offences under Sections 326, 307 read with Section 34 of the IPC. This order was challenged by the appellants in the High Court of Jharkhand. By the impugned order the High Court dismissed the challenge, hence, this appeal.

4. Now, the question before this Court is whether this Court can compound the offences under Sections 326 and 307 of the IPC which are non-compoundable. Needless to say that offences which are non-compoundable cannot be compounded by the court. Courts draw the power of compounding offences from Section 320 of the Code. The said provision has to be strictly followed (*Gian Singh v. State of Punjab* [1]). However, in a given case, the High Court can quash a criminal proceeding in exercise of its power under Section 482 of the Code having regard to the fact that the parties have amicably settled their disputes and the victim has no objection, even though the offences are non-compoundable. In which cases the High Court can exercise its discretion to quash the proceedings will depend on facts and circumstances of each case. Offences which involve moral turpitude, grave offences like rape, murder etc. cannot be effaced by quashing the proceedings because that will have harmful effect on the society. Such offences cannot be said to be restricted to two individuals or two groups. If such offences are quashed, it may send wrong signal to the society. However, when the High Court is convinced that the offences are entirely personal in nature and, therefore, do not affect public peace or tranquility and where it feels that quashing of such proceedings on account of compromise would bring about peace and would secure ends of justice, it should not hesitate to quash them. In such cases, the prosecution becomes a lame prosecution. Pursuing such a lame prosecution

would be waste of time and energy. That will also unsettle the compromise and obstruct restoration of peace.

5. In Gian Singh this Court has observed that where the High Court quashes a criminal proceeding having regard to the fact that the dispute between the offender and the victim has been settled although the 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. Needless to say that the above observations are applicable to this Court also.

6. Learned counsel for the parties have requested this Court that the impugned order be set aside as the High Court has not noticed the correct position in law in regard to quashing of criminal proceedings when there is a compromise. Affidavit has been filed in this Court by complainant-Anil Mandal, who is respondent No. 2 herein. In the affidavit he has stated that a compromise petition has been filed in the lower court. It is further stated that he and the appellants are neighbours, that there is harmonious relationship between the two sides and that they are living peacefully. He has further stated that he does not want to contest the present appeal and he has no grievance against the appellants. Learned counsel for the parties have confirmed that the disputes between the parties are settled; that parties are abiding by the compromise deed and living peacefully. They have urged that in the circumstances pending proceedings be quashed. State of Jharkhand has further filed an affidavit opposing the compromise. The affidavit does not persuade us to reject the prayer made by the appellant and the second respondent for quashing of the proceedings.

7. In view of the compromise and in view of the legal position which we have discussed hereinabove, we set aside the impugned order dated 4/7/2012 and quash the proceedings in S.C.No.9/05 pending on the file of 2nd Additional Sessions Judge, Godda. The appeal is disposed of.