Serial No. 03

HIGH COURT OF JAMMU & KASHMIR AND LADAKH AT JAMMU

CRM(M) No. 787/2024

Param Jeet Singh, Age 66 years, S/O Late Bishan Singh, R/o H. No. 335, EP Dalpatian Mohalla, Jammu

..... Petitioner(s)

Vs

1. UT of J&K Th. Incharge Police Station, Satwari Jammu;

2. Victor Masih S/O Nazir Masih, R/o Kallain Kothey, Mandal Satwari Jammu.

..... Respondent(s)

Through: Mr. P. D. Singh, Dy. AG.

Through: Mr. Abhishek Gupta, Advocate.

CORAM: HON'BLE MR. JUSTICE M A CHOWDHARY, JUDGE

ORDER (08.11.2024)

- Inherent jurisdiction of this Court under Section 528 BNSS is being invoked by the petitioner for quashment of FIR No. 105 of 2023 (hereinafter referred to as the, "impugned FIR") registered at Police Station, Satwari Jammu under Sections 447, 427, 147, 504 & 506 IPC.
- 2. The parties were stated to have entered into a compromise and settled their disputes and differences and in this regard, a compromise deed dated 21.10.2023 has been placed on record of the instant petition. In view of the compromise so arrived at between the parties, the petitioner, as also the respondent No. 2 in terms of order dated 18.10.2024 were directed to appear before the learned Registrar Judicial for recording their statements in support of the deed of compromise.

- 3. The statements of the petitioner/accused, as also the respondent No. 2/complainant have been recorded on 18.10.2024 by the learned Registrar Judicial of this Court, wherein both of them stated that they have amicably resolved all the disputes and issues. Respondent No. 2/complainant has further prayed that the impugned FIR registered against him for the commission of offences punishable under Sections 447, 427, 147, 504 & 506 IPC be quashed, in view of the compromise reached between the petitioner and respondent No. 2.
- 4. Mr. Pawan Dev Singh, learned Dy. AG while appearing submitted that the petitioner as an accused of the offences in the impugned FIR on a complaint filed by the respondent No. 2-Victor Masih for having trespassed into the land of the complainant party, thereby causing loss and, therefore, the police has registered a case, so that the same is brought to justice. He, however, in view of the compromise between the complainant and the accused has stated that this Court may take a view on its own, having regard to the nature of the offences and did not dispute for such matters, where the dispute is essentially of a civil nature between the parties, the criminal action in the matter in view of the compromise be given a quietus.
- 5. Heard learned counsel for the petitioner and perused the record.
- A question, in view of the aforesaid factual position, has arisen as to whether this Court has power to quash the proceedings, particularly when some of the offences alleged to have been committed by the petitioner/accused, are non-compoundable in nature.
- 7. With a view to fortify his claim, learned counsel for the petitioner has relied upon the judgment of the Supreme Court titled "Gian Singh Vs. State

of Punjab & Anr." reported in 2012 (10) SCC 303", wherein while considering the aspect of whether the High Court has power to quash the proceedings when some of the offences alleged to have been committed which are non-compoundable in nature, the Apex Court has observed as follows:-

"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".

8. Petitioner/accused pleaded following facts:-

- a) That dispute and difference the arose between the petitioner/accused and respondent No. 2/complainant, which sprouted from a piece of land situated at Village Kallian Kothey, Tehsil Mandal, District Jammu falling under Khasra No. 44 measuring 04 Kanals 13 Marlas and Khasra No. 63 measuring 07 Kanals 08 Marlas; that with respect to the above-said land, on 11.05.2023, a civil suit has been filed by the respondent No. 2 and his brothers against the petitioner having title "Anwar Bhatti & Ors. v. Paramjit Singh" before the Court of learned Munsiff Jammu; that further the respondent No. 2 has filed the impugned FIR 105/2023 dated 03.06.2023 against the petitioner under Sections 147, 427, 147, 504, 506 registered by police Station Satwari Jammu with respect to the land in question, which was essentially of civil nature given cloak of criminal offence.
- b) That both the parties, i.e., respondent No. 2 and petitioner in view of their amicable settlement have now entered into a Written compromise/agreement dated 21.10.2023 to resolve the dispute, which sprouted with respect to the land in question, which has fuelled the civil suit and the impugned FIR.
- c) That the respondent No. 2 by the way of the compromise deed also agreed to withdraw the civil case and the FIR filed by him against the petitioner and after the execution of the compromise deed in view of the settlement arrived at between the parties, the respondent No. 2 and his brother have withdrawn the civil suit titled, "Anwar Bhatti & Ors. Vs. Paramjit Singh" pending before the Court of learned Munsiff, Jammu.

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9. The ratio of judgment of Gian Singh's case (supra) makes the legal

proposition abundantly clear that the High Court has inherent powers under

Section 482 CrPC to quash the proceedings to meet the ends of justice if the

parties have settled their disputes amicably by a compromise. Thus, in view of

the amicable settlement between the parties, the possibility of conviction of the

petitioners herein is remote and bleak and continuation of criminal case rather

would put the petitioners to great oppression and extreme injustice despite full

and complete settlement and compromise having been arrived at with the

respondent No. 4 and further continuation of the proceedings arising out of the

FIR in question would be unfair and contrary to the interests of justice and in

essence, would amount to abuse of process of law.

10. For the reasons discussed hereinabove, the instant petition is

allowed on the basis of Compromise Deed dated 21.10.2023 entered and

executed on 02.11.2023 between the petitioner and respondent No. 2 and the

FIR No. 105 of 2023 registered at Police Station, Satwari Jammu under Sections

447, 427, 147, 504 & 506 IPC, is hereby quashed.

11. Petition, along with pending application(s), if any, is, thus,

disposed of, accordingly.

(M A CHOWDHARY)

JUDGE

JAMMU 08.11.2024

Ram Krishan

Whether the order is speaking? Whether the order is reportable?

Yes/No Yes/No