HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

S.B. Criminal Misc(Pet.) No. 317/2020

1. Abhishek Sharma S/o Sh. Raman Kumar, Aged About 30 Years, By Caste Brahmin, R/o A-2, West Jyoti Nagar, Shahdara, Dehli.
2. Hemant Thakur S/o Shri Deep Chand, Aged About 26 Years, By Caste Thakur, R/o A/1, Gali No. 2, Jyoti Nagar, Shahdara, Delhi.
3. Mohsin Ahmed S/o Shri Bahar Ahmed, Aged About 33 Years, B-113, 3Rd Floor, Subhash Nagar Vihar, Delhi.

----Petitioners

Versus

1. State, Through P.p.
2. Sh. Satish Kumar Pandey S/o Sh. Bajrang Sawroop Pandey, By Caste Brahmin, R/o Nagar Nigam Wali Gali, Hanuman Hatha, Sadar Bikaner (Raj.).

----Respondents

For Petitioner(s)	:	Mr. Trilok Joshi
For Respondent(s)	:	Mr. SK Bhati, PP Mr. Devendra Singh, for the complainant.

HON'BLE MR. JUSTICE VIJAY BISHNOI

Judgment / Order

22/01/2020

This criminal misc. petition under Section 482 Cr.P.C. has been preferred by the petitioners with the prayer for quashing the proceedings pending against the petitioners before the learned Additional Chief Judicial Magistrate, No.2 Bikaner (hereinafter referred to as 'the trial court'), State vs. Abhishek & Ors. in Criminal Regular Case No. 60/2019 (arising out of FIR No.261/2018 Police Station Sadar, District Bikaner), whereby the trial court vide order dated 01.04.2019 attested the compromise

for the offences punishable under Sections 419, 420 and 406 IPC but did to attest the compromise for the offence punishable under Section 120-B as for the said offence, the parties did not file any compromise.

Brief facts of the case are that on a complaint lodged at the instance of respondent No.2, the Police Station Sadar, District Bikaner registered an FIR No.261/2018 against the petitioners. After investigation, the police filed charge sheet against the petitioners for the offences punishable under Sections 419, 420, 406 and 120-B IPC in the trial court, wherein the trial is pending against the petitioners for the said offences. During the pendency of the trial, an application was preferred on behalf of the petitioners as well as the respondent No.2 while stating that both the parties have entered into compromise and, therefore, the proceedings pending against the petitioners may be terminated. The learned trial court vide order dated 01.04.2019 allowed the parties to compound the offences punishable under Sections 419, 420 and 406 IPC however, the offence punishable under Section 120-B IPC was not attested as no compromise was filed before it though the offence under Section 120-B IPC is compoundable.

The present criminal misc. petition has been preferred by the petitioners for quashing the said proceedings against them.

The learned counsel for the petitioners has argued that as the complainant-respondent No.2 and the petitioners have already entered into compromise and on the basis of it, the petitioners have been acquitted for the offence punishable under Sections

419, 420 and 406 IPC, there is no possibility of conviction of the petitioners for the offence punishable under Section 120-B IPC.

The Hon'ble Apex Court while answering a reference in the case of ***Gian Singh Vs. State of Punjab & Anr.*** reported in ***JT 2012(9) SC – 426*** has held as below:-

> "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."

Keeping in view the observations made by the Hon'ble Supreme Court in ***Gian Singh's*** case (supra), this Court is of the opinion that it is a fit case, wherein the criminal proceedings pending against the petitioners can be quashed while exercising powers under Section 482 Cr.P.C.

Accordingly, this criminal misc. petition is allowed and the criminal proceedings pending against the petitioners before the learned Additional Chief Judicial Magistrate, No. 2 Bikaner in Criminal Regular Case No.60/2019 (State vs. Abhishek & Ors) are hereby quashed.

(VIJAY BISHNOI),J

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