Sr. No. 34

HIGH COURT OF JAMMU & KASHMIR AND LADAKH, ATJAMMU

CRMC No. 519/2018

Anjali Kesar alias Sunita Kesar & anr. …. Petitioner(s)

Through:- Mr. Daleep Kumar, Advocate

V/s

State of J&K & ors. …..Respondent(s)

Through:- Mr. Pawan Dev Singh, Dy.AG

Coram : HON'BLE MRS. JUSTICE SINDHU SHARMA, JUDGE

JUDGMENT
11.03.2024

01. Petitioners have invoked inherent jurisdiction of this Court under section 561-A Cr.P.C. seeking quashing of FIR No. 0103/2018 dated 03.07.2018 registered at Police Station Pacca Danga, Jammu against them for the commission of offences under sections 457, 380 read with Section 34 RPC.

02. It is submitted that a dispute arose between the petitioners and respondent No. 3 along with Sandeep Kapoor and Darshana Devi regarding the tenancy of the shop located at Jhulaka Mohallah. A civil suit was filed and thereafter the said litigation between the parties took the shape of criminal one as both the parties lodged FIR against each other. It is submitted that petitioner No. 1 lodged an FIR No. 104 of 2018 against Ram Kapoor, Sandeep Kapoor and Darshana Devi for the commission of offences punishable under

Sections 451, 323 RPC. On the complaint of respondent No. 3, FIR No. 103/2018 was registered against the petitioners at Police Station Pacca Danga, Jammu for the commission of offences punishable under Section 457, 380/34 RPC.

03. It is submitted that with the intervention of the people of the area, the parties have agreed to resolve their disputes amicably. They have executed a Compromise Deed dated 02.08.2022 which has been annexed with this petition. Perusal of the Compromise Deed reveals, that the parties have resolved the dispute amicably and they do not want to pursue any criminal or civil litigation between them.

04. Accordingly, parties have approached this Court. Today, both the parties are present in person and are duly identified by their counsels. Statements of the petitioners as well as respondent No. 3 have been recorded. They submit that in terms of the Compromise Deed, they have amicably settled the dispute outside the Court and a Compromise Deed has been executed in this regard and they have decided not to pursue the impugned FIR.

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05. Perusal of the Compromise Deed reveals that the parties have settled the dispute amicably out of their own free will and without any external pressure or coercion.

06. Having heard learned counsel for the parties and to pursue quietus to the controversy and amicable settlement between the parties, no useful purpose would be served in continuation of this petition. Similar issue was considered by the Hon'ble Apex Court in **Narinder Singh & ors. versus State of Punjab & ors., (2014) 6**

SCC 466, vide which the guidelines were framed for accepting the settlement, for quashing the proceedings or refusing to accept the settlement with direction to continue with criminal proceedings. Paragraph Nos. 29.3, 29.4 & 29.5 are reproduced below:-

> **"29.03** Such a power is not be exercised in those prosecutions which involve heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. Such offences are not private in nature and have a serious impact on society. Similarly, for offences alleged to have been committed under special statute like the Prevention of Corruption Act or the offences committed by Public Servants while working in that capacity are not to be quashed merely on the basis of compromise between the victim and the offender.
>
> **29.04** On the other, those criminal cases having overwhelmingly and pre-dominantly civil character, particularly those arising out of commercial transactions or arising out of matrimonial relationship or family disputes should be quashed when the parties have resolved their entire disputes among themselves.
>
> **29.0**5 While exercising its powers, the High Court is to examine as to whether the possibility of conviction is remote and bleak and continuation of criminal cases would put the accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal cases."

07. Therefore, such power is not to be exercised in prosecutions cases which involve heinous & serious offences of mental depravity like murder, rape, dacoity, etc.

08. In the present case also, the offences alleged against the petitioners do not fall within the offences of heinous nature of mental depravity, like murder, rape, dacoity as such, keeping in view the nature of the allegations and considering the fact that they have settled the matter and decided to live in a peace and harmony as the complainant having specifically agreed that he along with others have no objection if FIR as stated above is quashed.

09. The possibility of conviction in view of the compromise between the parties, is bleak and continuation of criminal proceedings will cause grave injustice to the parties as the parties are no longer interested in pursuing the same. This Court is of the view that continuation of proceedings in this case would be abuse of process of the Court.

10. In view of the aforesaid discussion as well as keeping in view the law laid down by the Hon'ble Apex Court, this petition is allowed and FIR No. 0103/2018 dated 03.07.2018 registered at Police Station Pacca Danga, Jammu is quashed.

11. This petition along with connected application(s), if any, stands **disposed of** as such.

(Sindhu Sharma)
Judge

JAMMU
11.03.2024
Ram Murti

Whether the order is reportable : Yes
Whether the order is speaking : Yes