IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Cr.MMO No.899 of 2024

Date of Decision: 03.10.2024

Ankush Shyam .…….Petitioner

Versus

State of H.P. & others … Respondents

Coram:
Hon'ble Mr. Justice Sandeep Sharma, Judge.
Whether approved for reporting? [1]

For the Petitioner: Mr. H.C.Sharma, Advocate.

For the Respondents: Mr. Rajan Kahol, Mr. Vishal Panwar and Mr. B.C.Verma, Additional Advocate Generals, with Mr. Ravi Chauhan, Deputy Advocate General, for respondent No.1/State.

Mr. Vijay Mokhta, Advocate, for respondent Nos. 2 and 3.

Sandeep Sharma, Judge(oral):

By way of instant petition filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita,2023, prayer has been made on behalf of the petitioner for quashing of FIR No.54 of 2024, dated 22.08.2024, under Sections 281 and 125(a)of Bhartiya Nyaya Sanhita, registered at police Station Shimla East, District Shimla, Himachal Pradesh as well as consequent proceedings pending adjudication in the competent Court of law, on the basis of the compromise arrived *inter se* parties, whereby both the parties have resolved to settle their dispute amicably *interse* them.

[1] *Whether the reporters of the local papers may be allowed to see the judgment?*

2. Precisely, the facts of the case, as emerge from the record are that FIR, sought to be quashed in the instant proceedings, came to be lodged at the behest of respondent No.2, Sh. Mohan (***hereinafter referred to as the complainant),*** who alleged that on 22.08.2024, he alongwith his brother-in-law (Jija) namely, Mani Ram was going towards Panthaghati from Kasumpti in car No. HP-08C-3005, but when afore vehicle reached near R.V.K. School Kasumpti, his brother-in-law Mani Ram stopped the vehicle on the side of the road to receive a telephonic call and at 7.50 PM, while his brother-in-law was talking to somebody on phone, vehicle bearing registration No. HP-09B-2436 came from behind and hit car being driven by his brother-in-law, as a result of which, he as well as his brother-in-law suffered multiple injuries. Since complainant, named hereinabove, alleged that accident occurred on account of rash and negligent driving of the petitioner, FIR, sought to be quashed, came to be instituted against him. However, before same could be taken to its logical end, parties have entered into compromise, whereby they resolved to settle the dispute amicably *interse* them. In the aforesaid background, prayer has been made on behalf of the petitioner for quashing of the FIR as well as consequent proceedings.

3. Pursuant to order dated 16.9.2024, respondent-State has filed status report under the signature of SHO, police Station East Shimla, District Shimla, Himachal Pradesh, wherein factum of compromise has been duly acknowledged. Alongwith aforesaid status

2024:HHC:9513

report, police has also placed on record statement given by the parties, whereby they while acknowledging factum of the compromise, have decided not to prosecute the case further. Besides above, respondent No.2/complainant Mohan and injured Mani Ram have also come present in Court and are being represented by Mr. Vijay Mokhta, Advocate. They state on oath before this Court that they of their own volition and without there being any external pressure have entered into the compromise with petitioner, whereby they have resolved to settle their dispute amicably *interse* them. They state that FIR, sought to be quashed, is result of misunderstanding because accident did not occur on account of rash and negligent driving of the petitioner, rather on account of error of judgment. They state that since they have fully recovered from the injuries suffered by them in the accident, coupled with the fact that they have been duly compensated qua the damage caused to their vehicle, they do not wish to prosecute the case further and shall have no objection in case prayer made on behalf of petitioner for quashing of the FIR as well as consequent proceedings, if any, pending adjudication in the competent Court of law, is accepted and petitioner-accused is acquitted of the charges framed against him.

4. Mr. B.C.Verma, learned Additional Advocate General, after having heard the aforesaid statements made by respondent No.2/ complainant and respondent No.3/injured, fairly states that no fruitful purpose would be served in case FIR as well as consequent

2024:HHC:9513

proceedings, sought to be quashed, are allowed to sustain. He further states that otherwise also, chances of conviction of petitioner-accused are very remote and bleak in view of the statements made by respondent Nos. 2 and 3 and as such, respondent-State shall have no objection in case the prayer made in the petition is allowed.

5. The question which now needs consideration is whether FIR's in question can be ordered to be quashed when Hon'ble Apex Court in **Narinder Singh and others** versus **State of Punjab and another** (2014)6 SCC 466 has specifically held that power under S. 482 CrPC is not to be exercised in the cases which involve heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc., since such offences are not private in nature and have a serious impact on society.

6. At this stage, it would be relevant to take note of the judgment passed by Hon'ble Apex Court in **Narinder Singh** (supra), whereby the Hon'ble Apex Court has formulated guidelines for accepting the settlement and quashing the proceedings or refusing to accept the settlement with direction to continue with the criminal proceedings. Perusal of judgment referred to above clearly depicts that in para 29.1, Hon'ble Apex Court has returned the findings that power conferred under Section 482 of the Code is to be distinguished from the power which lies in the Court to compound the offences under Section 320 of the Code. No doubt, under Section 482 of the Code, the High Court has inherent power to quash criminal

2024:HHC:9513

proceedings even in those cases which are not compoundable and where the parties have settled the matter between themselves, however, this power is to be exercised sparingly and with great caution. In para Nos. 29 to 29.7 of the judgment Hon'ble Apex Court has laid down certain parameters to be followed, while compounding offences.

7. Careful perusal of para 29.3 of the judgment suggests that such a power is not to be exercised in the cases 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. Apart from this, offences 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. On the other hand, those criminal cases having overwhelmingly and predominantly civil character, particularly arising out of commercial transactions or arising out of matrimonial relationship or family disputes may be quashed when the parties have resolved their entire disputes among themselves. Aforesaid view taken by Hon'ble Apex Court has been further reiterated in **Gian Singh** v. **State of Punjab and anr.** (2012) 10 SCC 303.

8. The Hon’ble Apex Court in case **Gian Singh** supra has held that power of the High Court in quashing of the criminal proceedings or FIR or complaint in exercise of its inherent power is

distinct and different from the power of a Criminal Court to compound the offences under Section 320 Cr.P.C. Even in the judgment passed in **Narinder Singh's** case, the Hon'ble Apex Court has held that while exercising inherent power of quashment under Section 482 Cr.P.C the Court must have due regard to the nature and gravity of the crime and its social impact and it cautioned the Courts not to exercise the power for quashing proceedings in heinous and serious offences of mental depravity, murder, rape, dacoity etc. However subsequently, the Hon'ble Apex Court in **Dimpey Gujral and Ors**. vs. **Union Territory through Administrator, UT, Chandigarh and Ors**. (2013(11 SCC 497 has further reiterated that 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. Hon'ble Apex Court further observed that when offences of a personal nature, burying them would bring about peace and amity between the two sides.

9. Hon'ble Apex Court in its judgment dated 4th October, 2017, titled as **Parbatbhai Aahir @ Parbatbhai Bhimsinhbhai Karmur and others** versus **State of Gujarat and Another**, passed in Criminal Appeal No.1723 of 2017 arising out of SLP(Crl) No.9549 of 2016, reiterated the principles/ parameters laid down in **Narinder Singh's** case supra for accepting the settlement and quashing the proceedings.

10. In the case at hand also, offences alleged to have been committed by petitioner do not involve offences of moral turpitude or any grave/heinous crime, rather same are petty offences, as such, this Court deems it appropriate to quash the FIR as well as consequential proceedings thereto, especially keeping in view the fact that the petitioner, respondent No.2/complainant and respondent No.3/injured have compromised the matter *interse* them, in which case, possibility of conviction is remote and no fruitful purpose would be served in continuing with the criminal proceedings.

11. Consequently, in view of the aforesaid discussion as well as law laid down by the Hon'ble Apex Court (supra), FIR No.54 of 2024, dated 22.08.2024, under Sections 281 and 125(a) of Bhartiya Nyaya Sanhita, registered at police Station Shimla East, District Shimla, Himachal Pradesh as well as consequent proceedings pending adjudication in the competent Court of law, are quashed and set aside. Accused is acquitted of the charges framed against him.

12. The petition stands disposed of in the aforesaid terms, alongwith all pending applications.

(Sandeep Sharma),
Judge

October 03, 2024
(shankar)