

IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr.M.P. No. 1036 of 2022
with
I.A. No. 3384 of 2022

1. Md. Irshad Hussain @ Md. Irshad @ Irshan
2. Md. Arshad Hussain @ Md. Arshad
3. Sultana Khatoon @ Sultana Khatun
4. Md. Ahsaan Hussain @ Md. Ehshan @ Ahsan Ali
5. Md. Irfan Hussain @ Md. Irfan
6. Gulfsha @ Gulfas Petitioners

Versus

1. The State of Jharkhand.
2. Safiha Parween Opposite Parties

CORAM : HON'BLE MR. JUSTICE SANJAY KUMAR DWIVEDI

For the Petitioners : Mr. Shailesh, Advocate.
For the State : Mr. Prabhu Dayal Agrawal, Spl.P.P.
For the O.P. No. 2 : Mr. Uttam Kumar Das, Advocate.

02/ 02.05.2022 Heard Mr. Shailesh, learned counsel appearing for the petitioners, Mr. Prabhu Dayal Agrawal, learned Spl.P.P. for the State and Mr. Uttam Kumar Das, learned counsel appearing for the O.P. No. 2.

2. This criminal miscellaneous petition has been filed for quashing of the entire criminal proceedings as well as order dated 07.03.2022, passed by the learned Chief Judicial Magistrate, Dhanbad, whereby cognizance for the offences under Sections 498-A, 341, 323, 504, 506/34 of the Indian Penal Code and Section 3/4 of the Dowry Prohibition Act, has been taken against the petitioners, in connection with Bankmore P.S. Case No. 149 of 2021, corresponding to G.R. No. 651 of 2022, pending in the Court of learned Judicial Magistrate, 1st Class, Dhanbad.

3. Mr. Shailesh, learned counsel appearing for the petitioners submits that the case is arising out of matrimonial dispute. He submits that there are two marriages between the family of the petitioners and the O.P. No. 2. He further submits that now both the parties have entered into a compromise and have settled their dispute, for which, I.A. No. 3384 of 2022 has been filed. He submits that the settlement between the parties has been annexed as Annexure-3 to the petition. He also submits that the petitioners and the O.P. No. 2 have filed cases against each other. It has also been submitted that both the parties have closed all the cases, filed against each other.

4. Mr. Uttam Kumar Das, learned counsel has appeared *suo motu* on behalf of O.P. No. 2 and submits that a compromise has arrived at between the parties and he has accepted the submissions of Mr. Shailesh, learned counsel appearing for the petitioners. He submits that I.A. No.

3384 of 2022 has been filed for joint compromise. He also submits that this I.A. has been supported by the affidavits of O.P. No. 2 as well as the petitioners.

5. Mr. Prabhu Dayal Agrawal, learned Spl.P.P. appearing for the State submits that it is well within the domain of this Court to quash the proceeding, if the Court is satisfied that the settlement is carried out and no societal interest is involved therein.

6. In view of the above fact and considering the submissions of learned counsel appearing for the parties and looking into Annexure-3, which is the compromise petition and no societal interest is involved in this case, it is well within the domain of the court to quash the proceedings. Reference may be made to the case of **Narinder Singh & Ors. Versus State of Punjab & Anr.**, reported in (2014) 6 SCC 466, wherein the Hon'ble Supreme Court has held that in those cases which are not compoundable and there is no chance of conviction and also there is no societal interest, where the parties have settled the matter between themselves, the power is to be exercised. In Paragraphs-27 and 28, the Hon'ble Supreme Court has held as follows:-

27. At this juncture, we would like also to add that the timing of settlement would also play a crucial role. If the settlement is arrived at immediately after the alleged commission of offence when the matter is still under investigation, the High Court may be somewhat liberal in accepting the settlement and quashing the proceedings/investigation. Of course, it would be after looking into the attendant circumstances as narrated in the previous para. Likewise, when challan is submitted but the charge has not been framed, the High Court may exercise its discretionary jurisdiction. However, at this stage, as mentioned above, since the report of the I.O. under Section 173, Cr.P.C. is also placed before the Court it would become the bounding duty of the Court to go into the said report and the evidence collected, particularly the medical evidence relating to injury etc. sustained by the victim. This aspect, however, would be examined along with another important consideration, namely, in view of settlement between the parties, whether it would be unfair or contrary to interest of justice to continue with the criminal proceedings and whether possibility of conviction is remote and bleak. If the Court finds the answer to this question in affirmative, then also such a case would be a fit case for the High Court to give its stamp of approval to the compromise arrived at between the parties, inasmuch as in such

cases no useful purpose would be served in carrying out the criminal proceedings which in all likelihood would end in acquittal, in any case.

28. We have found that in certain cases, the High Courts have accepted the compromise between the parties when the matter in appeal was pending before the High Court against the conviction recorded by the trial court. Obviously, such cases are those where the accused persons have been found guilty by the trial court, which means the serious charge of Section 307 IPC has been proved beyond reasonable doubt at the level of the trial court. There would not be any question of accepting compromise and acquitting the accused persons simply because the private parties have buried the hatchet.

7. Reference may further be made to the case of “ **Gian Singh Vs. State of Punjab & Anr.**” reported in (2012) 10 SCC 303, wherein the Hon’ble Supreme Court has also conceded about the quashing of the case in terms of the settlement, arrived at between the parties. Paragraph-61 of the said judgment reads as follows:-

61. 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 FIR may be exercised where the offender and the 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 a serious impact on society. Similarly, any compromise between the victim and the offender in relation to the offences under special statutes like the 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 predominatingly civil flavour stand on a 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, the High Court may quash the criminal proceedings if in its view, because of the compromise between the offender and the victim, the possibility of conviction is remote and bleak and continuation of the criminal case would put the 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 the wrongdoer and whether to secure the ends of justice, it is appropriate that the criminal case is put to an end and if the answer to the above question(s) is in the affirmative, the High Court shall be well within its jurisdiction to quash the criminal proceeding.”

8. In view of the aforesaid facts and considering the settlement arrived at between the parties and there is no societal interest involved in this case and also taking into consideration the judgments of Hon'ble Supreme Court in the cases of **Narinder Singh & Ors. (Supra)** and **Gian Singh (Supra)**, the entire criminal proceedings as well as order dated 07.03.2022, passed by the learned Chief Judicial Magistrate, Dhanbad, whereby cognizance for the offences under Sections 498-A, 341, 323, 504, 506/34 of the Indian Penal Code and Section 3/4 of the Dowry Prohibition Act, has been taken against the petitioners, in connection with Bankmore P.S. Case No. 149 of 2021, corresponding to G.R. No. 651 of 2022, pending in the Court of learned Judicial Magistrate, 1st Class, Dhanbad, are hereby, quashed.

9. This criminal miscellaneous petition stands allowed and disposed of. The aforesaid interlocutory application also disposed of.

(Sanjay Kumar Dwivedi, J.)