

The State Of Madhya Pradesh vs Kalyan Singh on 4 January, 2019

Equivalent citations: AIR 2019 SUPREME COURT 312, (2019) 194 ALLINDCAS 88 (SC), (2019) 106 ALLCRIC 658, (2019) 128 CUT LT 596, (2019) 194 ALLINDCAS 88, (2019) 1 ALLCRILR 781, (2019) 1 ALLCRIR 382, (2019) 1 CRIMES 14, (2019) 1 RECCRIR 705, (2019) 1 SCALE 165, (2019) 1 UC 40, (2019) 2 BOMCR(CRI) 832, (2019) 2 CRILR(RAJ) 450, 2019 (2) KCCR SN 122 (SC), (2019) 2 RAJ LW 1230, 2019 (2) SCC (CRI) 57, (2019) 4 CALLT 62, 2019 (4) SCC 268, (2019) 5 MH LJ (CRI) 100, (2019) 73 OCR 743, 2019 CALCRILR 3 499, 2019 CRILR(SC MAH GUJ) 450, AIR 2019 SC(CRI) 1084, AIRONLINE 2019 SC 49

Author: M. R. Shah

Bench: M. R. Shah, D. Y. Chandrachud

1

NON-REPORTABLE

IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 14 OF 2019
[Arising out of SLP (CrI.) No. 5632 of 2014]

State of Madhya Pradesh

.. Appellant

Versus

Kalyan Singh & Ors.

.. Respondents

JUDGMENT

M. R. Shah, J.

Leave granted.

1. Being aggrieved and dissatisfied with the impugned judgment and order dated 29.7.2018 passed by the High Court of Madhya Pradesh in Miscellaneous Criminal Case No. 6075 of 2013, by which the High Court has quashed the criminal proceedings pending against the present Respondent herein by Crime No. 23 of 2013 for the offences under Sections 307, 294 read Section 34 of the IPC registered at the Police Station Maharajpur, District Gwalior, the State of Madhya Pradesh has preferred the present appeal.

2. That the Respondent No. 5 herein is the original Complainant one Birbal Sharma filed a complaint against Respondent Nos. 1 to 4 herein who are the original Accused for the offences under Sections 307, 294 read with Section 34 of the IPC. That the said complaint was registered as Crime No. 23 of 2013 at the Police Station Maharajpur, District Gwalior. It appears that the original Accused filed an application for bail which came to be rejected by the learned Sessions Court and, thereafter, the original Accused approached the High Court by filing the Miscellaneous Criminal Case No. 6075 of 2013 under Section 482 of the Cr.PC and requested to quash the criminal proceedings on the ground that the accused and the original Complainant have settled the dispute amicably. That the original Complainant submitted his affidavit stating that he has amicably settled the subject matter of the crime with the original Accused and that he has no objection for dropping the criminal proceedings. That, by the impugned judgment and order, the High Court in exercise of power under Section 482 of the Cr.PC has quashed the criminal proceedings against the original Accused which were for the offences under Sections 307, 294 read with Section 34 of the IPC, solely on the ground that the original Complainant and Accused have settled the dispute and the original Complainant does not want to prosecute the accused and, therefore, there is no change of recording conviction against the accused persons. At this stage, it is required to be noted that the said application was opposed by the State observing that the offences alleged against the accused are non-compoundable offences and, therefore, even if there is any settlement between the Complainant and the Accused, the complaint cannot be quashed. However, despite the above, the High Court quashed the criminal proceedings against the original Accused on the ground that there is a settlement between the Complainant and the original Accused and the original Complainant does not want to prosecute the accused further.

2.1 Feeling aggrieved and dissatisfied with the impugned judgment and order passed by the High Court quashing the criminal proceedings against the accused for the offences under Sections 307, 294 read with Section 34 of the IPC, the State of Madhya Pradesh has preferred the present appeal.

3. We have heard Shri Ms. Swarupama Chaturvedi, learned Advocate appearing on behalf of the State of Madhya Pradesh, Ms. Malini Poduval, learned Advocate appearing on behalf of the original Accused and perused the impugned judgment and order passed by the High Court.

3.1 It is required to be noted that the original Accused was facing the criminal proceedings under Sections 307, 294 read with Section 34 of the IPC. It is not in dispute that as per Section 20 of the Cr.PC offences under Sections 307, 294 read with Section 34 of the IPC are non-compoundable. It is also required to be noted that the allegations in the complaint for the offences under Sections 307, 294 read with Section 34 of the IPC are, as such, very serious. It is alleged that the accused fired twice on the complainant by a country-made pistol. From the material on record, it appears that one of the accused persons was reported to be a hardcore criminal having criminal antecedents. Be

that as it may, the fact remains that the accused was facing the criminal proceedings for the offences under Sections 307, 294 read with Section 34 of the IPC and that the offences under these sections are not non-compoundable offences and, looking to the serious allegations against the accused, we are of the opinion that the High Court has committed a grave error in quashing the criminal proceedings for the offences under Sections 307, 294 read with Section 34 of the IPC solely on the ground that the original Complainant and the accused have settled the dispute. At this stage, the decision of this Court in the case of Gulab Das and Ors. V. State of M.P. (2011) 12 SCALE 625 is required to be referred to. In the said decision, this Court has specifically observed and held that, despite any settlement between the Complainant on the one hand and the accused on the other, the criminal proceedings for the offences under Section 307 of the IPC cannot be quashed, as the offence under Section 307 is a non-compoundable offence. Under the circumstance, the impugned judgment and order passed by the High Court quashing the criminal proceedings against the original Accused for the offences under Sections 307, 294 read with Section 34 of the IPC cannot be sustained and the same deserves to be quashed and set aside.

4. In view of the above and for the reasons stated above, the present appeal is allowed. The impugned judgment and order passed by the High Court in Miscellaneous Criminal Case No. 6075 of 2013 is hereby quashed and set aside. Consequently, the criminal proceedings being Crime No. 23 of 2013 under Sections 307, 294 read with Section 34 of the IPC registered at Police Station Maharajpur, District Gwalior be proceeded further in accordance with law and on its own merits.

.....J. (D. Y. CHANDRACHUD)J. (M. R. SHAH) New
Delhi, January 4, 2019.