State Of M.P vs Manish & Ors on 6 July, 2015

Equivalent citations: 2015 AIR SCW 4245, 2015 (8) SCC 307, AIR 2015 SC(CRI) 1659, 2015 (4) AJR 50, AIR 2015 SC (SUPP) 2118, 2015 CRILR(SC MAH GUJ) 878, (2015) 154 ALLINDCAS 92 (SC), 2016 CALCRILR 1 345, (2015) 3 BOMCR(CRI) 685, (2015) 91 ALLCRIC 254, (2015) 2 MADLW(CRI) 722, (2015) 3 CRILR(RAJ) 878, (2015) 3 CURCRIR 224, (2015) 8 SCALE 7, (2015) 3 MAD LJ(CRI) 363, (2015) 3 ALLCRIR 2617, (2015) 3 RECCRIR 710, (2015) 2 GUJ LH 791, (2015) 62 OCR 66, 2015 (3) SCC (CRI) 510, 2015 CRILR(SC&MP) 878, (2015) 2 UC 1513, (2015) 4 CRIMES 115

Bench: Uday Umesh Lalit, Fakkir Mohamed Ibrahim Kalifulla

REPORTABLE

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 860 OF 2015
(ARISING OUT OF SLP(CRL.) NO.1059/2014)

STATE OF M.P Appellant

VERSUS

MANISH & ORS Respondent(s)

O R D E R

Leave granted.

Heard learned counsel for the appellant and the respondents. The appellant/State of Madhya Pradesh seeks to challenge the order of the High Court of Madhya Pradesh dated 25.6.2013 passed in Misc. Criminal Case No.4013/2013, in and by which the High Court in exercise of its powers under Section 482 Cr.P.C. by taking into account the stand of the de facto complainant, who was present before the Court, that she did not wish to prosecute the respondents herein as the disputes have been amicably settled between them, curiously proceeded to quash the FIR in Crime No.512/2012 registered at Police Station Thatipur, District Gwalior for offences under Sections 307, 294 and 34 IPC as well as the subsequent criminal proceedings being Criminal Case No.2602/2013 for the same offences pending before the Court. The High Court, however, made it clear that the proceedings pending against the private respondents herein in relation to the offences under Sections 25 and 27 of Arms Act were not quashed by the Court.

Therefore, the moot question that arises for consideration is whether based on out of Court settlement alleged to have been reached between the private parties, the offences of this nature falling under Sections 307, 294 and 34 IPC which are not covered by Section 320 Cr.P.C. can be taken note of and such orders of quashing of the proceedings can be passed in exercise of powers under Section 482 Cr.P.C.

The question is no longer res integra, inasmuch as the Three-Judge Bench of this Court in Gian Singh v. State of Punjab and another, reported in (2012) 10 SCC 303 which has been subsequently followed in a number of other decisions including the recent decision in State of M.P. v. Deepak and Others, reported in (2014) 10 SCC 285, clearly sets out as to in what circumstances and in what type of cases such exercise of inherent powers under Section 482 Cr.P.C. can be invoked de hors Section 320 Cr.P.C. for recognizing such out of Court settlement for the purpose of quashing of criminal proceedings.

The Three-Judge Bench decision in Gian Singh (supra) is an illuminating judgment on this issue. In paragraph 61 ultimately the position has been set out in clear terms as under:-

> "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 F.I.R 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 pre-dominatingly 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 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." (emphasis added) When we apply the principles set down therein, it can be stated that when it comes to the question of compounding an offence under Sections 307, 294 and 34 IPC along with Sections 25 and 27 of the Arms Act, by no stretch of imagination, it can be held to be an offence as between the private parties simpliciter. Inasmuch as such offences will have a serious impact on the society at large, it runs beyond our comprehension to state that after the commission of such offence the parties involved have reached a settlement and, therefore, such settlement can be given a seal of approval by the Judicial Forum.

In the circumstances, the High Court unfortunately having failed to appreciate the said legal position, the impugned order cannot be sustained. We are, therefore, convinced that in a situation where the private respondents herein are facing trial for offences under Sections 307, 294 read with 34 IPC as well as Sections 25 and 27 of the Arms Act, the cases pending trial before the Court in Criminal Case No.2602 of 2013, as the offences are definitely as against the society, the private respondents will have to necessarily face trial and come out unscathed by demonstrating their innocence. The impugned order is, therefore, set aside and the Trial Court is directed to proceed with the trial in accordance with law.

With the above observations and directions, the appeal stands allowed.

.....J. [FAKKIR MOHAMED IBRAHIM KALIFULLA] .....J. [UDAY UMESH LALIT] NEW DELHI;

JULY 06, 2015.