

**HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU**

CRM(M) No. 189/2024
CrIM No. 450/2024

**Ashok Kumar age 40 years, S/o Krishan Lal,
R/o Rangpur Sidhrey, R. S. Pura, District
Jammu.**Petitioner(s)

Through: Mr. Ankush Sharma, Advocate

Vs

**1. UT of J&K through Police Station, R.S.Pura
2. Suman Devi W/o Lt. Sukhdev Singh,
R/o Rangpur Sidhrey, R. S. Pura, Jammu.** Respondent(s)

Through: Mr. P D Singh, Dy AG

Coram: HON'BLE MR. JUSTICE MOHD. YOUSUF WANI, JUDGE

JUDGMENT
05.08.2024

1. Through the medium of instant petition filed under Section 482 of the Code of Criminal Procedure 1973 (erstwhile Code now repealed by BNSS but application in the case in hand and hereinafter referred to as 'Code' for short), the petitioner has sought quashment of the FIR No. 154/2022 dated 31.07.2022, registered by the Police Station, R. S. Pura under Sections 294/506 IPC against him along with final report/challan as mentioned under Section 173(1) of the Code filed subsequently before the competent Court upon culmination of the investigation, on the grounds *inter alia* that the same is outcome of a civil dispute and mutual rivalry; that he and the respondent No.2 i.e complainant in the case have with the intervention of the respectable members of the society sorted out their differences and have entered into a mutual settlement which came to be reduced into writing;

that Hon'ble the Apex Court and the various High Courts of the Country have time and again been pleased to quash the criminal proceedings in the cases compromised between the complainant and the accused and especially those which were found to be outcome of the civil litigation between the neighbourers or offshoot of personal animosity so as to allow the parties to live peaceful life with cordial relations and that the learned trial Court upon being requested to record the compromise and dispose of the case showed its inability to do so for want of enabling provisions in the Code.

2. The statements of the petitioner/accused and respondent No.2-complainant in the criminal case have already been got recorded by the learned Registrar (Judicial) on 15.07.2024. The said statements of the parties recorded upon their due identification are placed on the file. A Xerox copy of the Mutual Settlement has also been placed on the file.
3. Admittedly, the Hon'ble Apex Court and the various High Courts of the Country including this Court has been ordering the quashment of the criminal investigations and/or proceedings on the basis of mutual compromise between the complainant and the accused in justified circumstances. It is submitted by the learned counsel for the petitioner that there was a civil litigation between the father of the petitioner and the respondent No.2-complainant which is the cause behind the registration of the case FIR culminating into the criminal case pending against the petitioner.
4. In the opinion of this Court, the ends of justice will be met by allowing the petition and ordering the quashment of the criminal proceedings pending

against the petitioner having culminated from the impugned FIR bearing No. 154/2022.

5. It is also felt needful to mention that although, FIR cannot be generally and in a routine manner allowed to be quashed in exercise of the powers under Section 528 of the Bhartiya Nagarik Suraksha Sanhita ('BNSS' for short) corresponding to Section 482 of the Code on the mere ground that the parties have settled their controversy that had become the cause of occurrence, yet the provision of Section 320 of the Code do not restrict the powers of this Court vested in it under Section 528 of the BNSS to quash the FIR and consequent investigation process in exceptional circumstances for furthering cause of justice especially in cases where the disputes involving neighbourers are amicably settled subsequent to registration of the FIR.
6. In case, the FIR's and the criminal cases culminating from the investigations are allowed to be quashed on the wishes of the complainant, the criminal justice system is likely to become a causality and the society at large will have to bear the consequences.
7. The provisions of the Section 320 of the Code of 1973 corresponding to Section 359 of the new Code i.e. Bhartiya Nagarik Suraksha Sanhita, 2023 do not restrict but limit and circumvent the powers of this Court under Section 482 of the Code corresponding to Section 528 of the new Code (BNSS) regarding quashment of FIR's and criminal proceedings, for the sake of the society at large, which is the real beneficiary of the criminal justice delivery system.

8. Both the repealed Code of 1973 and the new Code of 2023 as per the provisions respectively contained under Sections 320(9) and 359(9) provide that no offence shall be compounded except as provided under the said Sections.
9. It has been held by the Hon'ble Apex Court in "**Gopalkumar B. Nair vs CBI**" reported in (2014) 5 SCC 800 that, "*though quashment of non-compoundable offence under Section 482 Cr.P.C following settlement between the parties would not amount to circumvention of Section 320, but such power has to be exercised with care and caution and would depend on the facts of each cases.*"
10. This Court in its opinion is also fortified with the law laid down by the Gauhati High Court in case titled "**Professor Diganta Kumar Das vs State of Assam and Another**", decided on 08.06.2023.
11. For the foregoing discussion and having regard to the statements of the petitioner and the respondent No.2, the petition is allowed and the criminal proceedings pending before the Court of learned Judicial Magistrate 1st Class, R. S. Pura through Challan No. 89/2022 dated 20.08.2022 having culminated from the FIR No. 154 of 2022 of Police Station, R.S.Pura under Sections 294/506 IPC, are quashed.
12. The learned trial Court be informed.
13. Disposed of.

(Mohd. Yousuf Wani)
Judge

Jammu
05.08.2024
Vijay

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