

STATE OF M.P. & ANR.

v.

RAJVEER SINGH & ORS.

(Criminal Appeal No. 446 of 2016)

APRIL 25, 2016

[V. GOPALA GOWDA AND ARUN MISHRA, JJ.]

Code of Criminal Procedure, 1973: s.482 – Quashing of proceedings – Complaint against respondent no.1 alleging commission of offence u/ss.307/34 IPC – Case of complainant was that on the date of incident, respondent no.1-police official intercepted his way, abused him and then fired a gun shot on his leg and as a result he fell down and thereafter police party started hitting him with butt of firearm and also with kicks and punches – FIR – Petition filed by respondent no.1 for quashing of criminal proceedings – During pendency of proceedings, he filed compromise petition stated to have been entered into between him and complainant – Case of respondent no.1 was that on the day of incident, there was an attack on police party by dacoits and the complainant was injured during the firing of the dacoits – During trial against the dacoits, respondent no.1 was examined as a witness – Besides him, other witnesses also recorded statement that the dacoit fired from his gun which hit the complainant – High Court quashed the FIR – Appeal by State – Held: It is apparent from the order that the High Court did not consider the facts and circumstances of the case and that there was serious counter allegation made against the complainant by accused respondent – It was alleged in the petition filed u/s.482 Cr.P.C. that he was harbouring the dacoits and gun-shots were fired by dacoits and injury suffered by complainant was caused by gun shot fired by dacoits – It is apparent that the complainant of the present case was not made an accused in the offence registered by the police in the year 2007 against certain dacoits and as they absconded, the trial was closed – The prayer was made before the High Court by respondent no.1 to reopen the trial and to try respondents 5 to 7 in the Sessions trial on the basis of offence registered in the year 2007 – Considering allegations and counter-allegations, it was not such a case which could have been compromised by the complainant and the accused

A *and FIR could not have been quashed in such a serious case as that was against public policy and administration of criminal justice system – The FIR disclosed commission of cognizable offence u/s.307/34 IPC – Considering the nature of allegation, further investigation is necessary – Appeal allowed and investigation be made in accordance with law.*

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Shiji @ Pappu & Ors. vs. Radhika & Anr. 2012 Cr.L.R. SC 69; Rajasthan vs. Shambhu Kewat & Anr. 2013 (12) SCR 973 : 2013(14) SCALE 235 – relied on.

Case Law Reference

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2012 Cr.L.R. SC 69	relied on	Para 7
2013 (12) SCR 973	relied on	Para 7

CRIMINAL APPELLATE JURISDICTION : Criminal Appeal No. 446 of 2016.

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From the Judgment and Order dated 27.02.2013 of the High Court of Madhya Pradesh, Bench at Gwalior, in M. Cr. C. No. 8802 of 2011.

Ms. Bansuri Swaraj, Ms. Shreya Bhatnagar, Raghunatha Sethupathy, C. D. Singh, Advs. for the Appellants.

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Pashupathi Nath Razdan, Prashant Shukla, Ms. Anushree Mishra, Advs. for the Respondents.

The following Order of the Court was delivered

ARUN MISHRA, J. 1. Leave granted.

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2. The appeal has been preferred by the State of M.P. against the order dated 27.2.2013, passed by the High Court of Madhya Pradesh in M.Cr.C. No.8802 of 2011 quashing the criminal proceedings against the respondent Rajveer Singh registered on the basis of complaint lodged by the respondent no.2, Hakim Singh Rawat vide Crime No.332 of 2011 for committing offence under Section 307/34 IPC at Police Station Karera, District Shivpuri.

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3. Hakim Singh Rawat, respondent no.2, the complainant lodged a complaint at Police Station, Karera on 3.4.2006 with respect to offence committed on 2.4.2006 in which it was alleged that while he was coming back from Ganna Kesar near Vabdeshu along with his companions, the respondent Rajveer Singh, Assistant Sub Inspector of Sunaki chowki intercepted his way, abused him and then police fired a gun shot on his

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leg due to which he suffered injury on the leg and fell down. The said ASI along with Constable started hitting the complainant by butt of firearm and also with kicks and punches. The complainant approached the TI of Police Station, Karera but the complaint was not recorded. Thereafter, he was taken to the District hospital, Shivpuri for proper care and treatment since the injury was grave and fatal as the same could not be cured at Karera. The victim faxed the complaint to the home department, Government of Madhya Pradesh and also approached the other authorities at Bhopal, but, FIR was not registered. Hence, filed a writ petition in the High Court of Madhya Pradesh which was decided vide order dated 1.8.2008. The Inspector General of Police was directed to hand over the inquiry of the case to an officer not below the rank of Additional Superintendent of Police. Finally, the case was registered on 2.7.2011.

4. The respondent, Rajveer Singh filed petition in year 2011 under Section 482 Cr.P.C. for quashing the criminal proceedings. During the pendency of the proceedings in 2013, he filed a compromise petition entered into between him and the complainant. The respondent no.1 had filed a petition before the High Court under Section 482 Cr.P.C. for quashing of the FIR and the proceedings in the said criminal case under Section 307/34. It was alleged by Rajveer Singh that offence no.120/06 dated 3.4.2006 was registered under Section 307/34 IPC against the other accused who were dacoits Umrao Singh and Hemraj Singh for launching attack on the petitioner and one Raghvendra Shukla was found helping the dacoits. The complainant, Hakim Singh Rawat was injured during the fire by the dacoits. FIR dated 3.4.2006 had been relied upon. Another offence no.20/06 dated 2.4.2006 was also registered under Section 34 against Umrao Singh and Hemraj Singh for commission of offence under Section 307/34 IPC for attack on police party. The complainant Hakim Singh was injured during the firing by the dacoits. During trial against the dacoits, respondent No.1 Rajveer Singh has been examined as a witness in the year 2008. Beside him, in the said trial, PW.2 Anup Singh has also stated that Hakim, Parmal and Jitendra were there who fled towards the river. Hemraj and other 2-3 dacoits were in the hideout and the dacoits started firing at the police party which hit the right leg of Hakim. Statement of PW.3, Vishal was also recorded in March 2008. He has also stated that dacoit Hemraj fired from his gun which hit the leg of Hakim. Similar is the statement of PW.4 and PW.5. In view of the aforesaid case against dacoits and the evidence, there was no justification to register the instant case against the respondent,

A Rajveer Singh. Prayer was made in the petition filed by Rajveer Singh to direct reopening of Session Trial No.83/07 in the court of the Special Judge, MPDPK Act, Shivpuri which was closed on the ground of absconding of the accused persons. It was further prayed that respondent nos. 5 to 7 i.e. Hakim Singh Rawat and others be made accused persons
 B in the said case as they harboured dacoits. Further prayer was made to quash the FIR in question lodged by Hakim Singh Rawat.

5. The High Court by way of impugned order has quashed the FIR. Aggrieved thereby, the State has come up in the appeal before us. We have heard the learned counsel for the parties. The High Court has
 C quashed the FIR which was registered after a direction issued by the High Court itself on the complaint lodged by Hakim Singh Rawat.

6. It is apparent from the order that the High Court has not considered the facts and circumstances of the case and that there is
 D serious counter allegation made against the complainant of the instant case by accused respondent Rajveer Singh. It was alleged in the petition filed under Section 482 Cr.P.C. that he was harbouring the dacoits and
 E gun-shots were fired by dacoits and injury suffered by Hakim was caused by gun shot fired by dacoits whereas the complainant has alleged that it was the police who fired shot at him due to which injury was caused. It is apparent that the complainant of the present case was not made an
 F accused in the offence registered by the police in the year 2007 against certain dacoits, as they absconded, the trial was closed. The prayer was made before the High Court by Rajveer Singh to reopen the trial and to
 G try respondents 5 to 7 in the Sessions trial on the basis of offence registered in the year 2007.

7. Considering allegations and counter-allegations, it was not such
 F a case which could have been compromised by the complainant and the accused and FIR could not have been quashed in such a serious case as that would be against public policy and administration of criminal justice system. The FIR discloses commission of cognizable offence under
 G Section 307/34 IPC. Considering the nature of allegation, it is necessary to investigate further in the facts and circumstances of the instant case. The High Court has erred in quashing the FIR relying on the decision of this Court in *Shiji @ Pappu & Ors. vs. Radhika & Anr*, 2012 Cr.L.R. (SC 69). This Court in *State of Rajasthan vs. Shambhu Kewat & Anr*, 2013(14) SCALE 235 has held that the crime against a society cannot
 H be wiped of due to the compromise. This Court has laid down thus:

“We are not prepared to say that the crime alleged to have been committed by the accused persons was a crime against an individual, on the other hand it was a crime against the society at large. Criminal law is designed as a mechanism for achieving social control and its purpose is the regulation of conduct and activities within the society. Why Section 307 IPC is held to be non-compoundable, because the Code has identified which conduct should be brought within the ambit of non-compoundable offences.

Such provisions are not meant, just to protect the individual, but the society as a whole. High Court was not right in thinking that it was only an injury to the person and since the accused persons had received the monetary compensation and settled the matter, the crime as against them was wiped off. Criminal justice system has a larger objective to achieve, that is safety and protection of the people at large and it would be a lesson not only to the offender, but to the individuals at large so that such crimes would not be committed by any one and money would not be a substitute for the crime committed against the society. Taking a lenient view on a serious offence like the present, will leave a wrong impression about the criminal justice system and will encourage further criminal acts, which will endanger the peaceful co-existence and welfare of the society at large.”

8. The facts are to be gone into during the investigation. The High Court has erred in quashing the FIR in the facts and circumstances of this case. Hence, we set aside the order passed by the High Court, appeal is allowed and let an investigation be made in accordance with law and taken to its logical conclusion at the earliest.

Devika Gujral

Appeal allowed.