

**Cri. M.C. No. 21 of 2016**

Mohit Kumar Agarwal & Ors. vs. State of Sikkim

**BEFORE  
HON'BLE MRS. JUSTICE MEENAKSHI MADAN RAI, JUDGE**

5. 12.06.2017 Present: Mr. Ajay Rathi and Mr. Aditya Makkhim, Advocates for the Petitioners.

Mr. J.B. Pradhan, Public Prosecutor with Mrs. Pollin Rai, Asst. Public Prosecutor for the State-Respondent.

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**1.** Heard.

**2.** The Petitioners No. 1, 2 and 3 before this Court are the Accused persons in G.R. Case No. 312 of 2015, in the Court of the learned Judicial Magistrate, East Sikkim at Gangtok. The matter arose out of an FIR No. 06/2015 lodged by the Petitioner No.4 on 28.3.2015, informing therein that four sacks of Cardamom was missing from his godown located at Rongli Bazaar, the lock to the door having been broken. On the basis of the FIR, the Police registered Rongli Police Station Case of even date under Sections 454/380 of the Indian Penal Code, 1860 against unknown persons. On investigation revealing that the Petitioners No. 1, 2 and 3 had committed the offence, Charge-Sheet was submitted accordingly. Before the learned Trial Court, charges were framed against the

Petitioners No.1, 2 and 3 under Section 454/380/34 of the Indian Penal Code, 1860.

**3.** It is submitted that in the interim, the Petitioners No.1, 2 and 3 have resolved their dispute with the Petitioner No.4 and amicably settled the matter as they all reside in the same locality. That, the Petitioners No.1, 2 and 3 have apologised to the Petitioner No.4, who in turn does not seek to pursue the Prosecution. That, the settlement was arrived at to maintain cordial relations between the parties with no coercion on the Petitioner No. 4. It is also submitted that the Compromise Deed was executed between the parties on the 12<sup>th</sup> of May, 2016 and hence, in view of the Compromise, it would be an exercise in futility to continue with the proceedings. In support of his submissions, he has placed reliance on ***Gian Singh v. State of Punjab : (2012) 10 SCC 303*** and ***Narinder Singh and Another v. State of Punjab and Another : (2014) 6 SCC 466.***

**4.** Learned Public Prosecutor while drawing the attention of this Court to the decision of the Supreme Court in ***Yogendra Yadav and Others v. State of Jharkhand and Another : (2014) SCC 653***, submits that there ought to be no impediment in the quashing of the proceedings in view of the principles laid down in the decision of ***Gian Singh (supra)*** referred to in

the aforesaid submissions. That, in view of the voluntary settlement between the parties, he has no objection to the Petition under Section 482 of the Code of Criminal Procedure, 1973.

**5.** I have heard learned Counsel at length and given due consideration to their submissions. I have also carefully perused the documents on record.

**6.** In *Gian Singh (supra)*, as pointed out by the learned Public Prosecutor at Paragraph 58, it is laid down as;

"58. Where the High Court quashes a criminal proceeding having regard to the fact that the dispute between the offender and the victim has been settled although the offences are not compoundable, it does so as in its opinion, continuation of criminal proceedings will be an exercise in futility and justice in the case demands that the dispute between the parties is put to an end and peace is restored; securing the ends of justice being the ultimate guiding factor."

It goes without saying that the Court while exercising powers under Section 482 of the Code of Criminal Procedure, 1973, has to ensure that the purpose is to secure the ends of justice and to prevent the abuse of the process of any Court.

**7.** In the instant matter, it is evident that the parties being neighbours have compromised the matter and the Petitioner No.4, has submitted that he was under no coercion

to settle the matter. The articles stolen from his godown have been recovered and handed over to him. The offences under which the Petitioners were booked do not entail a penalty of death or imprisonment for life.

**8.** In view of the aforesaid facts and circumstances and the legal position as put forth in the aforesaid decisions, it would be in the interest of justice to truncate the proceedings, considering that in view of the settlement, evidence if any, against the Petitioners No. 1, 2 and 3 would be scant and would not only result in waste of judicial working hours but would also be a futile exercise.

**9.** Petition allowed.

**10.** The FIR No.06/2015 dated 28.3.2015 filed before the Rongli Police Station stands quashed. Consequently, the proceedings before the Court of the learned Judicial Magistrate, East Sikkim at Gangtok, are also quashed.

**11.** A copy of this Order be sent to the Court of the learned Judicial Magistrate, East Sikkim at Gangtok, for information.

**12.** Crl. M. C. No. 21 of 2016 stands disposed of, as also the I.A.

**Judge**  
**12.06.2017**

Index : ~~Yes~~ / No  
Internet : Yes / ~~Ne~~

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