

Court No. - 87

Case :- APPLICATION U/S 482 No. - 2502 of 2022

Applicant :- Shyamraji

Opposite Party :- State of U.P. and Another

Counsel for Applicant :- Anurag Upadhyaya

Counsel for Opposite Party :- G.A.,Dhirendra Kumar Agrahari

Hon'ble Neeraj Tiwari,J.

1. Heard learned counsel for the applicant, learned A.G.A. for the State and Sri Dhirendra Kumar Agrahari, learned counsel for the opposite party No. 2.

2. The present 482 Cr.P.C. application has been filed to quash the entire proceedings of Session Trial No. 308 of 2013 (State Vs. Udai Bhan & Others), arising out of Case Crime No. 123 of 2012, under Sections- 147, 148, 307, 326, 504, 506 I.P.C., Police Station- Gaura Badshahpur, District- Jaunpur, pending in the court of learned Additional District Judge VIth, Jaunpur, in view of compromise dated 02.12.2021.

3. Learned counsel for the applicant submitted that applicant and opposite party No. 2 are residents of same village and on negotiation on the advice of known persons of the locality, parties have entered into compromise on 02.12.2021. He next submitted that said compromise was also filed before the trial Court on the same day. He next submitted that the compromise has been rejected by the trial Court only on the ground that the offence is non-compoundable. He next submitted that applicant is having no criminal history to his credit, therefore, in light of judgment of Apex Court in the matter of ***Narinder Singh And Others Vs. State of Punjab And Another***, reported in ***(2014) 6 SCC 466***, even in case of severe injury, compromise is permissible. He next submitted even in the counter affidavit, aforesaid fact has not been denied.

4. Learned A.G.A. could not dispute the aforesaid facts.

5. Learned counsel for the opposite party No. 2 has not objected the aforesaid facts and submitted that in case proceedings against the applicant is quashed, he would have no objection.

6. I have considered the submissions advanced by learned counsel for the parties and perused the record.

7. I have also perused judgment of Apex Court passed in **Narinder Singh(Supra)**. Relevant Paragraphs of the said judgment are quoted hereinbelow:

"31. In the present case, FIR No.121 dated 14.7.2010 was registered under Section 307/324/323/34 IPC. Investigation was completed, whereafter challan was presented in the court against the petitioner herein. Charges have also been framed; the case is at the stage of recording of evidence. At this juncture, parties entered into compromise on the basis of which petition under Section 482 of the Code was filed by the petitioners namely the accused persons for quashing of the criminal proceedings under the said FIR. As per the copy of the settlement which was annexed along with the petition, the compromise took place between the parties on 12.7.2013 when respectable members of the Gram Panchayat held a meeting under the Chairmanship of Sarpanch. It is stated that on the intervention of the said persons/Panchayat, both the parties were agreed for compromise and have also decided to live with peace in future with each other. It was argued that since the parties have decided to keep harmony between the parties so that in future they are able to live with peace and love and they are the residents of the same village, the High Court should have accepted the said compromise and quash the proceedings.

32. We find from the impugned order that the sole reason which weighed with the High Court in refusing to accept the settlement between the parties was the nature of injuries. If we go by that factor alone, normally we would tend to agree with the High Court's approach. However, as pointed out hereinafter, some other attendant and inseparable circumstances also need to be kept in mind which compel us to take a different view.

33. We have gone through the FIR as well which was recorded on the basis of statement of the complainant/victim. It gives an indication that the complainant was attacked allegedly by the accused persons because of some previous dispute between the parties, though nature of dispute etc. is not stated in detail. However, a very pertinent statement appears on record viz., "respectable persons have been trying for a compromise up till now, which could not be finalized". This becomes an important aspect. It appears that there have been some disputes which led to the aforesaid purported attack by the accused on the complainant. In this context when we find that the elders of the village, including Sarpanch, intervened in the matter and the parties have not only buried their hatchet but have decided to live peacefully in future, this becomes an important consideration. The evidence is yet to be led in the Court. It has not even started. In view of compromise between parties, there is a minimal chance of the witnesses coming forward in support of the prosecution case. Even though nature of injuries can still be established by producing the doctor as witness who conducted medical examination, it may become difficult to prove as to who caused these injuries. The chances of conviction, therefore, appear to be remote. It would, therefore, be unnecessary to drag these proceedings. We, taking all these factors into consideration cumulatively, are of the opinion that the compromise between

the parties be accepted and the criminal proceedings arising out of FIR No.121 dated 14.7.2010 registered with Police Station LOPOKE, District Amritsar Rural be quashed. We order accordingly.

34. Appeal is allowed. No costs."

8. From the perusal of above judgment, it is apparently clear that even in the matter of offence punishable under Section 307 IPC, criminal proceeding may be quashed on the basis of compromise. So far as present case is concerned, applicant is having no criminal history and now the parties have entered into compromise, therefore, there is no occasion to continue the present criminal proceeding.

9. In view of the facts and circumstances of the case, the applicant and opposite party no. 2 do not want to pursue the case any further as stated by them. The matter has been mutually settled between the parties, therefore, no useful purpose would be served in proceeding with the matter further.

10. Thus in view of the well settled principle of law as laid down by the Hon'ble Apex Court in the matters of ***Krishnappa & Ors. vs. State of Karnataka; 2021 0 Supreme(SC) 529, Parbatbhai Aahir @ Parbatbhai Bhimsinhbhai Karmur and Ors. vs. State of Gujarat and another; 2017 9 SCC 641, B.S. Joshi Vs. State of Haryana; 2003(4) SCC 675, Nikhil Merchant Vs. Central Bureau of Investigation and another; (2008) 9 Supreme Court Cases 677, Gian Singh Vs. State of Punjab; (2012) 10 SCC 303*** as well as ***Narinder Singh And Others Vs. State of Punjab And Another***, reported in ***(2014) 6 SCC 466***, the proceedings of the aforesaid case is hereby quashed.

11. The present application is, accordingly **allowed**.

12. No order as to costs.

Order Date :- 29.11.2023

ADY