

**Court No. - 90**

**Case :-** APPLICATION U/S 482 No. - 20950 of 2016

**Applicant :-** Smt. Shanti Devi And 3 Ors

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

**Counsel for Applicant :-** Ravi Prakash Singh

**Counsel for Opposite Party :-** G.A.

**Hon'ble Dinesh Pathak,J.**

1. As per inquiry report of learned District Judge dated 1.11.2023 submitted on the basis of report of learned Judicial Magistrate/Additional Civil Judge (J.D.), Court No.3, Aligarh, copy of the order dated 18.09.2023 passed by this Court has not been received by the court concerned.

2. Having considered the observation made by learned District Judge, concerned officials of the criminal section of this Court have been called up to explain their conduct as to why order dated 18.09.2023 passed by this Court could not be communicated to the court concerned. They have produced the documents to show that the letter had been sent to the learned Chief Judicial Magistrate, Aligarh by speed post dated 20.09.2023. It is further submitted that by same consignment, two dispatch letters were sent i.e. letter nos.16382 and 16381. As per track report of the postal department, consignment No. CU524670825IN was delivered on 25.09.2023. Original receipt of the consignment/speed post has been produced before this Court.

3. Learned District Judge is hereby directed to look into the matter and fix the liability of the person concerned as to how and why, even after delivery of the consignment, letter could not be placed before the court concerned. After conducting an inquiry, he shall submit a report to The Registrar General for further action, if any required.

4. The Registrar (compliance) is hereby directed to communicate this order to the learned District Judge along with copy of the postal receipt and copy of consignment tract report of postal department, which has been produced before this Court,

5. Copy of this order shall be communicated to The Registrar General High Court for his knowledge and further action, if required.

**Order Date :-** 5.12.2023/Mini

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

**Counsel for Applicant :-** Ravi Prakash Singh

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**Hon'ble Dinesh Pathak,J.**

1. Heard learned counsel for the applicant as well as learned AGA and perused the record.

2. The applicants have invoked the inherent jurisdiction of this Court under Section 482 Cr.P.C. to quash the charge sheet no.63 of 2015 dated 07.06.2015 as well as entire criminal proceedings of Case No.148 of 2016(State Vs. Mani Chandra and others), arising out of Case Crime No.280 of 2014, under Sections 323, 504, 506, 313, 452, 498A IPC and under Section 3/4 of D.P. Act, Police Station Madrak, District Aligarh.

3. Instant matter is arising out of matrimonial discord. During the pendency of the case, both the parties have entered into compromise and settled their dispute out of the court. Having considered the amicable settlement between the parties, this Court, vide order dated 15.07.2016, has directed the parties to get their compromise verified and, simultaneously, learned court concerned was directed to submit verification report.

4. For ready reference, order dated 15.07.2016 is quoted herein below:-

*" Heard learned counsel for the applicants and learned A.G.A. for the State. Present application has been filed for quashing of the entire proceedings of Case No. 148 of 2016, State Vs. Manik Chandra under Sections 323, 504, 506, 313, 452, 498-A I.P.C. and under Section 3/4 of D.P. Act, Police Station Madrak, District Aligarh.*

*In the present case husband of opposite party no.2 who was son of applicant no. 1 and brother of applicants no. 2, 3 and 4 has already died. Attention was drawn to a letter dated 15.1.2015 jointly filed by opposite party no. 2 and her late husband before the police authorities to the effect that the opposite party no. 2 does not want to live with her husband Manik Chandra and she does not want to prosecute the case. In paragraph 12 of the affidavit it has also been stated that Manik Chandra died on 15.1.2015 and opposite party no. 2 has remarried with one Sheeshpal Singh son of Om Prakash alias Omi resident of Village Nagarwar Chandpur, P.S. Khurja, district Bulandshahr and out of this*

wedlock she has given a birth to a female child.

*Issue notice to opposite party no. 2 fixing 3.10.2016. Steps be taken within a week.*

*In view of the facts as submitted, it has been prayed before this Court that the proceedings be quashed keeping in mind the law laid down by the Apex Court in the case of Gian Singh Vs. State of Punjab (2012) 10 SCC 303.*

*In view of the above, let the matter be listed on 3.10.2016. In the meantime, the parties are free to approach the concerned court with their compromise application. If any such compromise application is filed, within two weeks from today or in case it has already been filed, upon receipt of certified copy of this order, the court below will proceed to fix a date for securing the presence of the parties to the proceedings before it and proceed thereafter to ascertain the veracity of the compromise. If the said compromise is verified, the same shall be made part of the record and report to that effect will be prepared and the parties would be allowed to obtain certified copy thereof.*

*Till the next date of listing, if within two weeks from today a certified copy of this order is produced before the court below along with the compromise application or with an application to verify a compromise already placed on record, no coercive steps would be taken against the applicants till verification of the compromise in accordance with the observations made herein above.."*

5. In pursuance of the order passed by this Court, learned court concerned has verified the compromise vide its order dated 22.08.2016. Learned Judicial Magistrate has submitted its report dated 19.10.2023 along with copy of the compromise and compromise verification order dated 22.08.2016. Perusal of the compromise verification order dated 22.08.2016 reveals that both the parties were present personally before the court and they have been identified by their respective counsel. One of the accused, namely, Manik Chand (husband of the opposite party no.2 had died). His death certificate has been acknowledged by the court concerned. The terms of the compromise has been spelled out to the parties concerned, who have admitted the factum of the compromise and, accordingly, compromise, took place between the parties, has been verified.

6. Learned counsel for the applicants submits that, in the eventuality of amicable settlement arrived at between the parties and the verification of said compromise by the court competent, the instant application may be allowed and entire criminal proceeding may be quashed. It is further submitted that both the parties have buried the hatchet and living peacefully. There is no grudges between them against each other. To quash the cognizance order as well as criminal proceeding, learned counsel for the

applicants has relied upon the following judgments of the Hon'ble Apex Court :-

**(i) B.S.Joshi & Others Vs. State of Haryana & Others; (2003) 4 SCC 675.**

**(ii) Nikhil Merchant Vs. Central Bureau of Investigation; (2008) 9 SCC 667.**

**(iii) Manoj Sharma Vs. State & Others; (2008) 16 SCC 1.**

**(iv) Gyan Singh Vs. State of Punjab (2012) 10 SCC 303.**

**(v) Narindra Singh & Others Vs. State of Punjab (2014) 6 SCC 466.**

7. In a recent judgment passed by a Three Judges' Bench of the Apex Court in the Case of **Parbatbhai Aahir alias Parbatbhai Bhimsinhbhai Karmur and others Vs. State of Gujarat and another**, reported in **AIR 2017 SC 4843**, Hon'ble Supreme Court has summarized the ratio of all the cases decided earlier with respect to quashing of F.I.R./charge-sheet/criminal proceeding on the ground of settlement between the parties and expounded the ten categories in which application under Section 482 could be entertained for quashing the F.I.R./charge-sheet/criminal proceeding on the basis of compromise. Para no. 15 of the said judgement summarizing the proposition in this respect is reproduced below:-

*"15. (i) Section 482 preserves the inherent power of the High Court to prevent an abuse of the process of any court or to secure the ends of justice. The provision does not confer new powers. It only recognises and preserves powers which inhere in the High Court;*

*(ii) The invocation of the jurisdiction of the High Court to quash a First Information Report or a criminal proceeding on the ground that a settlement has been arrived at between the offender and the victim is not the same as the invocation of jurisdiction for the purpose of compounding an offence. While compounding an offence, the power of the court is governed by the provisions of Section 320 of the Code of Criminal Procedure, 1973. The power to quash under Section 482 is attracted even if the offence is non-compoundable.*

*(iii) In forming an opinion whether a criminal proceeding or complaint should be quashed in exercise of its jurisdiction under Section 482, the High Court must evaluate whether the ends of justice would justify the exercise of the inherent power;*

*(iv) While the inherent power of the High Court has a wide ambit and plenitude it has to be exercised;(i) to secure the ends of justice or (ii) to*

*prevent an abuse of the process of any court;*

*(v) The decision as to whether a complaint or First Information Report should be quashed on the ground that the offender and victim have settled the dispute, revolves ultimately on the facts and circumstances of each case and no exhaustive elaboration of principles can be formulated;*

*(vi) In exercise of the power under Section 482 and while dealing with a plea that the dispute has been settled, the High Court must have due regard to the nature and gravity of the offence. Heinous and serious offences involving mental depravity or offences such as murder, rape and dacoity cannot approximately be quashed though the victim or the family of the victim have settled the dispute. Such offences are, truly speaking, not private in nature but have a serious impact upon society. The decision to continue with the trial in such cases is founded on the overriding element of public interest in punishing persons for serious offences;*

*(vii) As distinguished from serious offences, there may be criminal cases which have an overwhelming or predominant element of a civil dispute. They stand on a distinct footing insofar as the exercise of the inherent power to quash is concerned;*

*(viii) Criminal cases involving offences which arise from commercial, financial, mercantile, partnership or similar transactions with an essentially civil flavour may in appropriate situations fall for quashing where parties have settled the dispute;*

*(ix) In such a case, the High Court may quash the criminal proceeding if in view of the compromise between the disputants, the possibility of a conviction is remote and the continuation of a criminal proceeding would cause oppression and prejudice; and*

*(x) There is yet an exception to the principle set out in propositions (viii) and (ix) above. Economic offences involving the financial and economic well-being of the state have implications which lie beyond the domain of a mere dispute between private disputants. The High Court would be justified in declining to quash where the offender is involved in an activity akin to a financial or economic fraud or misdemeanour. The consequences of the act complained of upon the financial or economic system will weigh in the balance."*

8. Learned AGA has no objection, in case, the instant application is decided by this Court on the basis of compromise took place between the parties, which is duly verified by the court concerned.

9. Having considered the compromise verification report, compromise verification order and with the assistance of the aforesaid guidelines, keeping in view the nature of gravity and severity of the offence, which are more particular in private dispute, it is deemed proper that in order to meet the ends of justice, the present proceeding should be quashed. In result,

dispute between the parties will put to an end, peace will be resorted and relationship between them will be smooth. No useful purpose would be served to keep the present matter pending inasmuch as both the parties have buried the hatchet and as the time passes, it will be difficult to prove the guilt of the accused. The continuation of criminal proceeding would cause oppression and prejudice.

10. In view of the aforesaid pronouncements of the Hon'ble Apex Court and in the light of the compromise arrived at between the parties, which has been duly verified by the concerned court below, the present application under Section 482 Cr.P.C. is hereby **allowed**. The entire criminal proceeding of the aforementioned case is hereby quashed.

11. Let a copy of the order be transmitted to the concerned lower Court for necessary action.

**Order Date :- 5.12.2023**

Mini