

Court No. - 69

Case :- APPLICATION U/S 482 No. - 7333 of 2023

Applicant :- Kushagra Singh

Opposite Party :- State Of U.P. .And Another

Counsel for Applicant :- Bhanu Bhushan Jauhari,Rishi Bhushan Jauhari

Counsel for Opposite Party :- G.A.,Dhirendra Kumar Srivastav,Rajesh Yadav

Hon'ble Samit Gopal,J.

1. List revised.
2. An affidavit dated 17.10.2023 has been filed on behalf of the applicant today in Court which is taken on record.
3. Heard Sri Rishi Bhushan Jauhari, learned counsel for the applicant, Sri Dhirendra Kumar Srivastav, learned counsel for the opposite party no.2 and Sri Bade Lal Bind learned counsel for the State and perused the records.
4. The present application under Section 482 Cr.P.C. has been filed by the applicant- Kushagra Singh with the prayer to allow the present application and quash the entire proceeding as well as summoning order dated 20.10.2022 in Complaint Case No. 9908 of 2022 (Smt. Priyanka Singh Vs. Kushagra Singh), under Section 406 I.P.C., Police Station Surajpur, District Gautam Buddh Nagar, pending in the Court of IInd Additional Chief Judicial Magistrate, Gautam Buddh Nagar,. It is further prayed that this Hon'ble Court may be pleased to stay the further proceeding of the aforesaid case, during the pendency of present application.
5. The matter was referred to the Mediation Centre of this Court vide order dated 28.02.2023 for making an effort between the parties for settling their disputes amicably.
6. As per report of Mediation Centre dated 29.08.2023 the parties have entered into settlement dated 29.08.2023 in view of Interim Settlement dated 08.08.2023 and have amicably settled their dispute and further agreed to withdraw the cases going on between them.
7. As per the office report dated 15.05.2023 a report from the Mediation Centre of this Court is on record.
8. On 04.10.2023 the following order was passed by this Court:-

"1. List revised.

2. Heard Sri Rishi Bhushan Jauhari, learned counsel for the applicant, Sri Mayank Singh holding brief of Sri Dhirendra Kumar Srivastava, learned counsel for the opposite party no. 2 and Sri Virendra Pratap Singh, learned counsel for the State.

3. Learned counsel for the applicant states that the applicant is to pay Rs. 11 lakh to the opposite party no. 2 before the Family Court, Gautam Buddh Nagar as per para 7(d) of the settlement agreement dated 29.08.2023 drawn between the parties before the Mediation and Conciliation Centre of this Court and since the matter is fixed before the Family Court on 16.10.2023 he shall be depositing the sum and filing the order of the concerned family court before this Court within a period of three days thereafter and prays for adjournment in the matter for two weeks.

4. Prayer is allowed.

5. Let the matter be listed on 27.10.2023.

6. Interim order, if any, shall remain in currency till the next date of listing."

9. While placing paragraph 4 of the affidavit filed today learned counsel for the applicant has submitted that the remaining amount of Rs. 11,00,000/- has been deposited before the Family Court concerned on 09.10.2023 as would appear from the order-sheet of the said court which is annexed as Annexure-1 to the affidavit. The same has been deposited through DD No. 589772 dated 25.08.2023. Further while placing paragraph 5 of the said affidavit it is argued that the Family Court concerned has granted a decree of divorce by mutual consent between the parties on 16.10.2023 in O.S. No. 165 of 2022 (Smt. Priyanka Singh Vs. Kushagra Singh).

10. Learned counsel for the opposite party no.2 does not dispute the said facts. He submits that money as deposited has been handed over to the opposite party no.2.

11. From perusal of the report of Mediation Centre of this Court, it appears that in pursuance of the said order the mediation proceedings were taken up which ended in a settlement dated 29.08.2023 between the parties and the Mediation succeeded. The parties have settled their grievances and even the dispute arising out in the present matter. The parties have agreed to withdraw the cases going on between them, the said fact is mentioned in para 7 (e) of the said mediation report.

12. The law with regards to quashing of a case on the basis of settlement arrived between the parties, is well settled. The Apex Court in the cases of **(1) B.S. Joshi and others Vs. State of Haryana and another: (2003)4 SCC 675; (2) Nikhil Merchant Vs. Central Bureau of Investigation : (2008) 9 SCC 677; (3) Manoj Sharma Vs. State and others: (2008) 16 SCC 1; (4) Gian Singh Vs. State of Punjab: (2012) 10 SCC 303; (5) Shaifullah and others Vs. State of U.P. And another: 2013 (83) ACC 278 and (6) Parbatbhai Ahir@Parbatbhai @ Bhimsinbhai Karmur and others Vs. State of Gujarat and another: (2017) 9 SCC 641** has held that the cases in which the parties have settled their grievances can be quashed.

13. From perusal of the records and the law laid down by the Apex Court on the subject matter, the present case is a good case for exercising powers by this Court to quash the proceedings as prayed for by the applicant.

14. The present application is allowed.

15. The proceedings of the present case as well as the summoning order in the aforesaid case are hereby quashed.

Order Date :- 27.10.2023
AS Rathore

(Samit Gopal,J.)