

Court No. - 90

Case :- APPLICATION U/S 482 No. - 8076 of 2023

Applicant :- Rehan Urf Choti And 5 Others

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

Counsel for Applicant :- Rajeev Sharma

Counsel for Opposite Party :- G.A.,Anoop Singh

Hon'ble Dinesh Pathak,J.

1. Heard learned counsel for the applicants, learned AGA for the State as well as learned counsel for the opposite party no.2 and perused the record.

2. The present applicants have invoked the inherent power of this Court under Section 482 Cr.P.C. beseeching the quashing of Charge sheet No.240 of 2021, dated 30.09.2021, arising out of Criminal Case No.35 of 2023 (State vs. Rehan Urf Choti and others), F.I.R. dated 21.04.2021, registered as Case Crime No.109 of 2021, under Sections 147, 452, 504, 506, 120-B, 195 and 323 I.P.C., Police Station Singhavali ahir, District Baghpat, on the basis of compromise.

3. With respect to the incident dated 02.02.2021, an F.I.R. has been lodged by opposite party no.2 against the present applicants levelling allegation of rioting, cheating, fraud, criminal complicity etc.

4. During the pendency of the criminal proceeding, both the parties have arrived at compromise and settled their dispute amicably out of the Court. Having considered the amicable settlement between the parties, this Court vide order dated 24.03.2023, has issued direction to the court concerned to verify the veracity of the compromise allegedly took place between the parties. For ready reference order dated 24.03.2023 passed by this Court is quoted hereinbelow:-

"Heard Mr. Rajeev Sharma, the learned counsel for applicants, the learned A.G.A. for State and Mr. Anoop Singh, the learned counsel for opposite party-2.

Supplementary affidavit filed by the learned counsel for applicant in Court today is taken on record.

Learned counsel for applicant contends that during pendency of aforesaid criminal case, parties amicably settled their dispute outside the Court. On the basis of settlement so arrived at between the parties, a compromise deed was drawn on 10.3.2023. Subsequently, an application dated 10.3.2023 was jointly filed by the parties before Court below praying therein that in view of the compromise so entered into by the parties, proceedings of aforesaid case be terminated. However, no order was passed by Court below in the light of above. As such, applicants who are charge sheeted accused have approached this court by means of present application.

It is contended by learned counsel for applicants that dispute between the parties is a purely private dispute and not a crime against society. Parties have amicably settled their dispute outside the Court. On the basis of settlement so arrived at by the parties, an application for terminating the proceedings of aforementioned case was filed before court below. Once the parties have entered into a compromise, no useful purpose shall be served in prolonging the proceedings of above mentioned case. The chance of conviction of accused applicants are now not only bleak but also remote. According to the learned counsel for applicants, the continuation of proceeding will itself amount to injustice to the parties.

Whether a compromise has taken place or not can best be ascertained by the court where the proceedings are pending, after ensuring the presence of the parties before it.

List for admission on 1.5.2023.

Learned counsel for parties undertake to ensure the presence of the respective parties before the court below or any other transferee court, as the case may be, on 17.4.2023. Court concerned shall thereafter 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 sent to this Court by the next date.

Parties are also directed to produce certified copy of this order before the court concerned on the date fixed before it.

In view of the fact that parties have entered into a compromise as an interim measure it is provided that till the next date of listing, no coercive action shall be taken against the applicant in Criminal Case No. 35 of 2023 (State Vs. Rehan Urf Choti and Others), under sections 147, 452, 504, 506, 120-B, 195 and 323 IPC, now pending in the Court of Judicial Magistrate, District Baghpat."

5. In pursuance of the order dated 24.03.2023 passed by this Court, learned Incharge Judicial Magistrate, Baghpat, has submitted verification report dated 05.04.2023 along with copy of the compromise and compromise verification order dated 05.04.2023.

6. Perusal of verification report reveals that in pursuance of the order passed by this Court, both the parties were appeared before

the court concerned and they have been identified by their respective counsels. Terms and conditions of the compromise has been spelt out to the parties, who have admitted the factum of compromise and, accordingly, compromise has been verified.

7. It is submitted by learned counsel for the applicants that in the eventuality of the amicable settlement took place between the parties and the verification of the compromise vide order dated 05.04.2023 passed by the court competent, instant application may be allowed and criminal proceeding initiated against the present applicants may be quashed.

8. In view of the above, learned counsel for the applicants submits that both the parties have buried the hatchet and there is no grudges between them against each other, who are living peacefully. It is further submitted that to observe the peace and tranquility in the life of both the parties, instant matter is required to be decided finally in the light of the settlement. 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.*

9. 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."

10. Learned AGA has no objection, in case, the instant application is decided by this Court on the basis of compromise application and compromise verification order dated 05.04.2023 took place between the parties, which is duly verified by the court concerned.

11. Learned counsel for the opposite party No. 2 has nodded the factum of the compromise entered into between the parties and he has no objection, if the instant application is decided finally on the basis of the said compromise. He also submits that compromise application and compromise verification order dated 05.04.2023 took place between both the parties, who have voluntarily entered into compromise and opposite party no. 2 does not wants to prosecute the present case against the applicants any more as no dispute remains between the parties.

12. Having considered the compromise application and compromise verification order dated 05.04.2023 took place between the parties 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.

13. In view of the aforesaid pronouncements of the Hon'ble Apex Court and in the light of the compromise application and compromise verification order dated 05.04.2023 arrived at between the parties, the present application under Section 482 Cr.P.C. is hereby allowed. The entire criminal proceeding of the aforementioned case, so far as it relates to the present applicants, is

hereby quashed.

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

Order Date :- 2.11.2023

Jitendra