

Court No. - 92

Case :- APPLICATION U/S 482 No. - 11063 of 2023

Applicant :- Rahmat And Another

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

Counsel for Applicant :- Arvind Prabodh Dubey, Ashok Kumar Giri

Counsel for Opposite Party :- G.A., Naushad Alam

Hon'ble Anish Kumar Gupta, J.

1. Heard Sri Arvind Prabodh Dubey, learned counsel for the applicants, Sri Naushad Alam, learned counsel for opposite party no.2 and Sri Pankaj Srivastava, learned A.G.A. for the State.

2. The instant application has been filed seeking quashing the entire proceedings of Special Trial No.359 of 2016 (State Vs. Rahmat), arising out of Case Crime No.100 of 2014, under Sections 323, 325, 504, 506 IPC and Section 3(1)(X) SC/ST Act, Police Station Vishunpura, District Kushinagar, pending in the court of Special Judge, SC/ST Act, Court, Kushinagar at Padrauna as well as summoning order dated 21.03.2014 passed by A.C.J.M. Kasya, District Kushinagar, on the basis of compromise preferred by opposite party no.2 dated 24.02.2023.

3. On 03.04.2023, this Court passed the following order:-

"Vakalatnama filed by Sri Naushad Alam, learned counsel appearing on behalf of opposite party no.2 today in the Court is taken on record.

Heard learned counsel for the applicants, learned counsel for the opposite party no.2 as well as learned A.G.A.

At the outset, learned counsel for the applicants submits that both the parties have come to terms and opposite party no.2 does not want to proceed with the case against the applicants in the light of the compromise arrived at between the parties.

Learned counsel for the applicants submits that better sense has prevailed between the parties and compromise deed dated 24.02.2023 is annexed as Annexure-5 to the application.

I have perused the terms of the compromise and the compromise deed attains the signatures of both the parties in which she has totally wriggled out herself from the prosecution story. Rest of the allegations are small and insignificant

in nature except Section 3(1)(x) of the SC/ST Act. Learned counsel for the applicant has relied upon the judgment of Hon'ble the Apex Court in the case of **Ramawatar Vs. State of M.P.** reported in **2021 SCC Online SC 966** in order to buttress his contention.

I have occasion to peruse the covenants of the aforesaid judgment and I am of the considered opinion that this prosecution case against the applicant can be quashed.

However, learned A.G.. has relied upon the judgment of this Court in the case of **Jhabbu Dubey@Pradeep Kumar Dubey Vs. State of U.P. and others** in Criminal Appeal No.5184 of 2022 decided on 28.02.2023 whereby it has been held that pursuant to Rule-11 and Rule 12(4) of SC/ST Rules, informant must have received substantial sum from the Samaj Kalyan Adhikari.

The District Magistrate, Kushi Nagar and the Samaj Kalyan Adhikari, Kushi Nagar is directed to recover the entire amount(if any) extended to opposite party no.2 in pursuance of the aforesaid Rules within next 15 days. The opposite party no.2 is obliged to return back the entire amount received by her from the Samaj Kalyan Adhikari.

It is made clear that only after deposit of the sum, concerned court shall summon both the parties and then pass a suitable order on verification of the compromise and the covenants and signatories of the said compromise shall also be verified.

The concerned court shall also make an observation as to whether this compromise has been executed out of free sweet will and there is no coercion or threat on the part of the applicant.

Let this exercise may be completed within next 25 days from today.

Put up this matter as fresh once again on 15.05.2023 showing the name of Sri Naushad Alam as counsel for the opposite party no.2.

On that date, learned counsel for the applicants is required to furnish the order passed by the court concerned by means of supplementary affidavit.

Till then, no coercive action shall be taken against the applicants in pursuance of Special Trial No.359 of 2016 arising out of case crime no.100 of 2014 under sections 323, 325, 504, 506 IPC and Section 3(1)(x) of SC/ST Act police station-Vishunpura, District-Kushi Nagar pending in the court of Special Judge, SC/ST Act, Kushi Nagar at Padrauna as well as summoning order dated 21.03.2014 passed by A.C.J.M. Kasya, District-Kushi Nagar in order to facilitate the parties to settle down the issue."

4. Pursuant to this order on deposit of the amount of compensation received by the opposite party no.2 on 07.07.2023, learned trial court has proceeded to verify the compromise on 20.07.2023 and the compromise between the parties has already been verified vide order dated 20.07.2023. The certified copy of which has been placed on record by way of supplementary affidavit dated

28.08.2023.

5. From perusal of record, it appears that in the instant case, there is some dispute between the parties and except allegation under the SC/ST Act there is no serious allegation against the applicants herein. Opposite party no.2 has expressed his willingness to condone the act of the applicants herein and she does not want to prosecute against the applicants in view of settlements between the parties, which has been duly verified by the Special Judge, SC/ST Act, Kushinagar, therefore, in the view of the guidelines given by the Apex Court in **Narinder Singh & Ors. vs. State of Punjab, (2014) 6 SCC 466 : Prabatbhai Aahir Alias Prabatbhai Bhimsinghbhai Karmur and others vs. State of Gujarat and Another, (2017) 9 SCC 641 and Gian Singh vs. State of Punjab and Another, (2012) 10 SCC 303**, the instant application deserved to be allowed as due to such settlement peace will prevail over in the society.

6. In view thereof, the instant application U/S 482 Cr.P.C. is accordingly **allowed** and the proceedings of Special Trial No.359 of 2016 (State Vs. Rahmat), arising out of Case Crime No.100 of 2014, under Sections 323, 325, 504, 506 IPC and Section 3(1)(X) SC/ST Act, Police Station Vishunpura, District Kushinagar, pending in the court of Special Judge, SC/ST Act, Court, Kushinagar at Padrauna as well as summoning order dated 21.03.2014 passed by A.C.J.M. Kasya, District Kushinagar, are hereby **quashed**.

Order Date :- 9.11.2023

Atul