

Court No. - 89

Case :- APPLICATION U/S 482 No. - 12295 of 2019

Applicant :- Ganesh Prasad Srivastava

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

Counsel for Applicant :- Sanjay Shukla

Counsel for Opposite Party :- G.A.

Hon'ble Deepak Verma,J.

1. Heard Sri Sanjay Shukla, learned counsel for the applicant, learned counsel for opposite party no.2 and learned A.G.A. for the State.

2. The present 482 Cr.P.C. application has been filed to quash the summoning order dated 04.02.1997, charge sheet dated 28.02.1996 submitted in Case Crime No.5 of 1996, under Sections 408, 420, 467, 468, 504, 506 I.P.C., Police Station-Kotwali, District-Gorakhpur registered as Case No.3267 of 1996, pending in the court of ACJM, Court No.1, Gorakhpur.

3. Learned counsel for the applicant submits that applicant has challenged the entire proceedings that parties has entered into compromise and there no dispute between the parties as the same was arisen due to misunderstanding and misgivings between the parties. With passage of time they have been able to resolve their differences and have settled their dispute amicably in writing and the compromise deed has been filed as annexure 4 to the affidavit. Opposite party No.2 realise that there was no criminal intent on part of the applicant and that no criminal offence has been committed by the applicants. He further submitted that by order dated 01.04.2019, the Hon'ble Court has passed the following order:

"Sri Sapan Kumar Singh, Advocate has put in appearance on behalf of the opposite party No.2 by filing vakalatnama along with counter affidavit.

Learned counsels for the both the parties admit that the rival parties have entered into the compromise and copy of which has already been filed as Annexure- 4 to the affidavit filed in support of the application.

In view of the above, the parties are hereby directed to appear before the court below on or before 15th April, 2019 for necessary verification of the signatures and the compromise. The verification report shall be submitted by the court below to this Court on or before 1st May, 2019.

List this matter on 1st May, 2019 showing the name of Sri Sapan Kumar Singh

as counsel for the opposite party No.2.

In the meantime until further orders of this Court, further proceedings of Case Crime No.- 5 of 1996, under Sections 408, 420, 467, 468, 504, 506 I.P.C., Police Station- Kotwali, District- Gorakhpur now registered as Case No. 3267 of 1996, pending in the court of Additional Chief Judicial Magistrate, Court No.1, Gorakhpur, shall remain stayed. List on 1.5.2019."

4. In pursuance of order passed by this Hon'ble Court, learned Addl. Chief Judicial Magistrate-I, Gorakhpur submitted a report that parties have entered into agreement and have been identified by their counsels. Report of ACJM-I, Gorakhpur dated 08.04.2019 has been annexed with the record. Applicant and opposite party no.2 compromised the matter and opposite party No.2 does not want to proceed the matter against the applicant. In view of the said compromise and in order to maintain harmonious and cordial relations between the parties, entire proceedings against the applicant be quashed.

5. Learned counsel for opposite party no.2 has filed counter affidavit in which in para 5 of the affidavit opposite party No.2 has admitted that both the parties have compromised the matter and have settled their dispute and in para 5 of the affidavit it is stated that informant does not want the criminal proceedings initiated against the applicant and written compromise dated 08.02.2019 have been entered between the parties.

6. Learned counsel for the applicants in support of his contention has placed reliance on the judgments of Apex Court in the case of **Narinder Singh vs. State of Punjab** reported in **(2014) 6 SCC 466**, and has submitted that the applicants and opposite party no.2 have settled through compromise their private and civil dispute and as such opposite party no.2 does not wish to press the aforesaid case against the applicants. Opposite party no.2 is ready to withdraw the prosecution of the applicants and in view of the compromise, no fruitful purpose would be served if the prosecution is allowed to go on.

7. Learned counsel appearing for the opposite party no.2 does not dispute the correctness of the submission made by learned counsel for the applicants or the correctness of the documents relied upon by him. He submits that opposite party no. 2 has no objection, if the proceedings in the aforesaid case are quashed.

8. Learned AGA could not dispute the aforesaid facts.

9. The Hon'ble Apex Court in the case of **Narindra Singh and**

others Vs. State of Punjab, (2014) 6 SCC 466, **Parbatbhai Aahir @ Parbatbhai Vs. State of Gujarat** (2017) 9 SCC, 641, **Gian Singh Vs. State of Punjab** (2012) 10 SCC 303 and **State of M.P. Vs. Laxmi Narayanan** (2019) 5 SCC 688, wherein Hon'ble Apex Court has categorically held that compromise can be made between the parties even in respect of certain cognizable and non-compoundable offences. Reference may also be made to the decision given by this Court in **Shaifullah and others Vs. State of U.P. and another** [2013 (83) ACC 278], in which, law expounded by the Hon'ble Apex Court in the aforesaid cases has been explained in detail.

10. Considering the facts and circumstances of the case, as noted herein above, and also the submissions made by learned counsel for the parties, this Court is of the considered opinion that no useful purpose would be served by prolonging the proceedings of the above mentioned case.

11. Accordingly, the entire proceedings of Case Crime No.5 of 1996, under Sections 408, 420, 467, 468, 504, 506 I.P.C., Police Station-Kotwali, District-Gorakhpur registered as Case No.3267 of 1996, pending in the court of ACJM, Court No.1, Gorakhpur, is hereby quashed.

12. This application under Section 482 Cr.P.C. is accordingly **allowed**.

Order Date :- 4.12.2023

Nitin Verma