

Court No. - 91

Case :- APPLICATION U/S 482 No. - 10846 of 2022

Applicant :- Chooraman

Opposite Party :- State Of U.P And 2 Others

Counsel for Applicant :- Deepak Kumar Pal

Counsel for Opposite Party :- G.A., Vikrant Gupta

Hon'ble Gajendra Kumar.J.

1. Heard learned counsel for the applicants and learned AGA for the state.
2. This application under Section 482 Cr.P.C. has been filed with the prayer to quash the impugned charge sheet dated 21.01.2021 as well as cognizance order dated 2.02.2021 and the entire proceedings of Case No.13 of 2021 (State Vs. Chooraman) arising out of Case Crime No.110 of 2021, under sections 363, 366, 376 IPC and section 3/4 POCSO Act, P.S. Khajuria, District Rampur, pending in the court of 8th Additional Sessions Judge, Rampur in terms of the compromise entered between the parties.
3. Pursuant to order dated 16.2.2023, the parties appeared before the court below for verification of settlement / compromise, who were duly identified by their counsel's, while verifying the compromise / settlement dated 03.07.2023.
4. It is submitted by learned counsel for the applicant that all the disputes and differences have been settled between the parties. At this stage, learned counsel further submitted that continuation of the proceedings of the aforesaid case will be an abuse of process of law. No fruitful purpose would be served by keeping the matter pending. In support of his contention, learned counsel for the applicant has also placed reliance on the law laid down by Apex Court in *Gian Singh vs. State of Punjab*, (2012), 10 SCC 303, *B.S. Joshi and others vs. State of Haryana and another*, (2003) 4 SCC 675 and *Madan Mohan Abbot vs. State of Punjab*, (2008) 4 SCC 582.
5. The Apex Court in the case of ***Kapil Gupta Vs. State of NCT of Delhi, Supreme Court Criminal Appeal No.1217 of 2022 decided on 10.08.2022***. Some relevant paragraphs of the aforesaid judgment is quoted as under:-

12. No doubt that the learned ASG is right in relying on various judgments of this Court which reiterate the legal position that in heinous and serious offences like murder or rape, the Court should not quash the proceedings. It will be relevant to refer to paragraph 29.5 to 29.7 of the judgment of this Court in the case of Narender Singh versus State of Punjab¹, which read thus:

“29.5 While exercising its powers, the High Court is to examine as to whether the possibility of conviction is remote and bleak and continuation of criminal cases would put the accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal cases.

29.6 Offences under [Section 307](#) IPC would fall in the category of heinous and serious 1 (2014) 6 SCC 466 offences and therefore are to be generally treated as crime against the society and not against the individual alone. However, the High Court would not rest its decision merely because there is a mention of [Section 307](#) IPC in the FIR or the charge is framed under this provision. It would be open to the High Court to examine as to whether incorporation of [Section 307](#) IPC is there for the sake of it or the prosecution has collected sufficient evidence, which if proved, would lead to proving the charge under [Section 307](#) IPC. For this purpose, it would be open to the High Court to go by the nature of injury sustained, whether such injury is inflicted on the vital/delegate parts of the body, nature of weapons used etc. Medical report in respect of injuries suffered by the victim can generally be the guiding factor. On the basis of this prima facie analysis, the High Court can examine as to whether there is a strong possibility of conviction or the chances of conviction are remote and bleak. In the former case it can refuse to accept the settlement and quash the criminal proceedings whereas in the latter case it would be permissible for the High Court to accept the plea compounding the offence based on complete settlement between the parties. At this stage, the Court can also be swayed by the fact that the settlement between the parties is going to result in harmony between them which may improve their future relationship.

29.7 While deciding whether to exercise its power under [Section 482](#) of the Code or not, timings of settlement play a crucial role. Those cases where the settlement is arrived at immediately after the alleged commission of offence and the matter is still under investigation, the High Court may be liberal in accepting the settlement to quash the criminal proceedings/investigation. It is because of the reason that at this stage the investigation is still on and even the charge-sheet has not been filed. Likewise, those cases where the charge is framed but the evidence is yet to start or the evidence is still at infancy stage, the High Court can show benevolence in exercising its powers favourably, but after prima facie assessment of the circumstances/material mentioned above. On the other hand, where the prosecution evidence is almost complete or after the conclusion of the evidence the matter is at the stage of argument, normally the High Court should refrain from exercising its power under [Section 482](#) of the Code, as in such cases the trial court would be in a position to decide the case finally on merits and to come a conclusion as to whether the offence under [Section 307](#) IPC is committed or not. Similarly, in those cases where the conviction is already recorded by the trial court and the matter is at the appellate stage before the High Court, mere compromise between the parties would not be a ground to accept the same resulting in acquittal of the offender who has already been convicted by the trial court. Here charge is proved under [Section 307](#) IPC and conviction is already recorded of a heinous crime and, therefore, there is no question of sparing a convict found guilty of such a crime.”

13. It can thus be seen that this Court has clearly held that though the Court should be slow in quashing the proceedings wherein heinous and serious offences are involved, the High Court is not foreclosed from examining as to whether there exists material for incorporation of such an offence or as to whether there is sufficient evidence which if proved would lead to proving the charge for the offence charged with. The Court has also to take into consideration as to whether the settlement between the parties is going to result into harmony between them which may improve their mutual relationship.

5. On the other hand, learned counsel for the opposite party no.2 submits that since the dispute between the parties has been settled, opposite party no.2 has no objection if the proceedings of the aforesaid complaint case pending before the trial court is quashed.

6. I have considered the submissions made by the learned counsel for the parties and have gone through the entire record.
7. In all the aforesaid cases, the Apex Court has laid down the law that criminal proceedings may be quashed even in non-compoundable cases by the High Court in exercise of its extraordinary jurisdiction to restore peace between the parties and in case the justice so demands. According to Hon'ble Supreme Court, if the offence involve private dispute between the parties of commercial nature or matrimonial dispute and it is not related to heinous offence, the proceedings may be quashed.
8. The facts and circumstances as stated hereinabove are peculiar in the present case. As per report, applicant and prosecutrix are living together happily as wife and husband. Prosecutrix is carrying a pregnancy of a month from the applicant. The prosecutrix has not supported the prosecution version. In the facts and circumstances of the case, there is a chance of settlement between the applicant and the prosecutrix. As such, looking to the facts and circumstances of the case, no mental depravity is involved in the case. If the request of the parties is denied, it will be amounting to only adding one more criminal case to the already overburdened criminal courts.
9. Since the dispute between the parties has been amicably and mutually settled, no fruitful purpose would be served by permitting to continue the criminal case pending before the trial court and it would simply be a waste of time if the aforesaid case is permitted to continue till its logical conclusion.
10. In view of the above, the Application u/s 482 Cr.P.C. is allowed.
11. The entire proceedings of Case No.13 of 2021 (State Vs. Chooraman) arising out of Case Crime No.110 of 2021, under sections 363, 366, 376 IPC and section 3/4 POCSO Act, P.S. Khajuria, District Rampur, pending in the court of 8th Additional Sessions Judge, Rampura against the applicant are quashed in terms of the compromise entered between the parties.

Order Date :- 29.11.2023

SFH

