

Neutral Citation No. - 2023:AHC:215507

Court No. - 90

Case :- APPLICATION U/S 482 No. - 20622 of 2023

Applicant :- Hardwari Lal Saini

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

Counsel for Applicant :- Ram Shiromani Yadav

Counsel for Opposite Party :- G.A., Krishna Kant Yadav

Hon'ble Dinesh Pathak,J.

1. Supplementary affidavit filed on behalf of applicant is taken on record.
2. Heard learned counsel for the applicant, learned AGA for the State as well as learned counsel for the opposite party no.2 and perused the record.
3. The present applicant has invoked the inherent power of this Court under Section 482 Cr.P.C. beseeching the quashing of charge sheet dated 21.02.2015 being Charge sheet No.25 of 2015 along with cognizance order dated 19.03.2015 as well as entire criminal proceeding of Session Trial No.488 of 2015 (Old) (State vs. Hardwari and others), arising out of Case Crime No.09 of 2015, under Sections 323, 504 I.P.C. and 3(1)(10) of SC/ST Act, Police Station Asmouli, district Sambhal, pending in the court of learned Special Judge SC/ST Act, Moradabad, on the basis of compromise.
4. It is submitted that due to some misunderstanding opposite party no.2 has lodged an F.I.R. against the present applicant. During pendency of the 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 31.07.2023, has directed the court concerned to verify the compromise took place between the parties. For ready reference order dated 31.07.2023 passed by this Court is quoted hereinbelow:-

"1. 19.10.2022 Heard learned counsel for the applicant and learned AGA for the State as well as learned counsel for opposite party No.2.

2. The applicant has invoked the inherent jurisdiction of this Court under Section 482 Cr.P.C. to quash the charge sheet dated 21.2.2015 and also to quash the cognizance order dated 19.3.2015 as well as entire criminal proceedings in Sessions Trial No.488 of 2015 (Old) (State vs.

Hardwari and others), arising out of Case Crime No.09 of 2015, under Sections 323 and 504 I.P.C. & 3(1) 10 of S.C./S.T. Act, Police Station Asmouli, District Sambhal, pending before the court of Special Judge S.C./S.T. Act, Moradabad.

3. It is submitted by learned counsel for the applicant that both the parties have amicably settled their dispute out of the court and inked the compromise dated 12.1.2023 which has been submitted before the court below. Photocopy of the aforesaid compromise is filed as Annexure No. 6 to the affidavit filed in support of the instant application. It is further submitted that both the parties have buried the hatchet and living peacefully and now there is no grudges against each other. Therefore, the criminal proceedings may be finally quashed in terms of the compromise.

4. Learned counsel for opposite party No.2 has nodded the submissions as raised by learned counsel for applicant and contended that there no grudges against each other between the parties.

5. In this conspectus, as above, learned trial court before whom compromise application dated 12.1.2023 is pending consideration, is hereby directed to verify the compromise in presence of both the parties after recording their statements and submit its verification report within a period of one month from the date of appearance of parties who are hereby directed to appear before the court below on 21.08.2023.

6. List this matter on 25.09.2023 along with the verification report submitted by trial court concerned.

7. Till the next date of listing no coercive action shall be taken against the applicant in the aforesaid case."

5. In pursuance of the order dated 31.07.2023 passed by this Court, learned Special Judge SC/ST Act, Moradabad, has submitted verification report dated 16.09.2023 along with compromise verification order dated 16.09.2023 and the cop of the statement made by first informant and the accused. Certified copy of the compromise verification order dated 16.09.2023 has been filed as Annexure No.S.A.1 to the supplementary affidavit filed today in the Court.

6. Perusal of verification report and the compromise order along with compromise application (Paper No.74-A) reveals that compensation amount received by the victim under the SC/ST Act has been rentured back to the account of the Samaj Kalyan Vibhag (Social Welfare

Department). Both the parties were present before the court concerned and they have been identified by their respective counsels. Accordingly, compromise has been verified. For ready reference order dated 16.09.2023 passed by this Court is quoted hereinbelow:-

" 16.09.2023

पत्रावली पेश हुई। पुकारा। वादी मुकदमा सुदेश कुमार तथा अभियुक्तगण हरद्वारी लाल व जसपाल मय विद्वान अधिवक्ता उपस्थित।

प्रस्तुत मामले में न्यायालय के आदेश के अनुपालन में जिला समाज कल्याण अधिकारी, मुरादाबाद की स्पष्ट आख्या कागज सं०-78 बी इस आशय की प्राप्त हुई है कि विशेष सत्र परीक्षण सं०-488/2015 राज्य बनाम हरद्वारी लाल में वादी मुकदमा द्वारा प्रतिकर के रूप में प्राप्त धनराशि रुपए 22,500/- समाज कल्याण विभाग के विभागीय लेखाशीर्षक में जमा कर दी गयी है। उक्त आख्या के साथ धनराशि जमा करने के चालान की छायाप्रति व कोषागार का प्रपत्र प्रस्तुत किया गया है।

आज माननीय उच्च न्यायालय, इलाहाबाद के आदेश दिनांकित 31.07.2023 के अनुपालन में वादी मुकदमा सुदेश कुमार तथा अभियुक्तगण हरद्वारी लाल सैनी व जसपाल के बयान अंकित किये गये।

समझौतानामा कागज सं०-74 ए/1 लगायत 74 ए/3 को न्यायालय द्वारा सत्यापित किया गया।

पत्रावली अग्रिम आदेश हेतु दिनांक 20.10.2023 को पेश हो।

माननीय उच्च न्यायालय के आदेशानुसार उक्त की बाबत आख्या तैयार कर, इस आदेश, पक्षकारों के अंकित किये गये बयान की छायाप्रति व सत्यापित समझौतानामा कागज सं-74 ए/1 लगायत 74 ए/3 की छायाप्रति के साथ, माननीय उच्च न्यायालय, इलाहाबाद को अविलम्ब प्रेषित की जाए।

उपरोक्त आख्या की एक प्रति पत्रावली पर रखी जाए।

दिनांक-16.09.2023 (सुनील कुमार-I)

विशेष न्यायाधीश

एस.सी./एस.टी. (पी०ए०) एक्ट,

मुरादाबाद।"

7. It is submitted by learned counsel for the applicant, that in the eventuality of the amicable settlement took place between the parties and the verification of the compromise vide order dated 16.09.2023 passed by the court competent, instant application may be allowed and criminal proceeding initiated against the present applicant may be quashed.

8. In view of the above, learned counsel for the applicant 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 16.09.2023 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 16.09.2023 took place between both the parties, who have voluntarily entered into compromise and opposite party no. 2 does not want to prosecute the present case against the applicants any more as no dispute remains between the parties.

12. Having considered the compromise took place between the parties and compromise verification order dated 16.09.2023 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 16.09.2023 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 :- 8.11.2023

Jitendra