

Court No. - 90

Case :- APPLICATION U/S 482 No. - 14627 of 2023

Applicant :- Narayan @ Naveen Chandra

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

Counsel for Applicant :- Upendra Kumar Tiwari

Counsel for Opposite Party :- G.A.,Kaushal Kishor

Hon'ble Dinesh Pathak,J.

1. Heard learned counsel for the applicant, learned AGA for the State as well as learned counsel for the opposite party nos.2 and 3 and perused the record.

2. The present applicant has invoked the inherent power of this Court under Section 482 Cr.P.C. beseeching the quashing of summoning order/cognizance dated 15.03.2016 as well as charge sheet dated 06.07.2014 and entire proceeding of Criminal Case No.1631/2016, arising out of Case Crime No.116/2014, under Sections 323, 325, 307 I.P.C., Police Station Rasoolabad, District Kanur Dehat, pending in the court of Judicial Magistrate-I, Kanpur Dehat, on the basis of compromise.

3. It is submitted that the opposite party no.2 has lodged an F.I.R. against the present applicant with respect to the incident dated 30.04.2014. 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 25.07.2023, has issued a direction to the court concerned to verify the compromise. For ready reference order dated 25.07.2023 passed by this Court is quoted hereinbelow:-

"1. Heard Sri Upendra Kumar Tiwari, learned counsel for the applicant, Sri Kaushal Kishor, learned counsel for the opposite party nos. 2 and 3, Sri P.P. Tiwari, learned A.G.A. for the State and perused the record.

2. The present 482 Cr.P.C. application has been filed to quash the entire proceedings pursuant to charge-sheet dated 06.07.2014 and summoning order dated 15.03.2016 passed against the applicant in Criminal Case No. 1631 of 2016 arising out of Case Crime No. 116/2014 u/s 323, 325 & 307 I.P.C., P.S.- Rasoolabad, District- Kanpur Dehat, pending before Judicial Magistrate-I, Kanpur Dehat. It was further prayed that the trial court be directed to decide the case on the basis of compromise entered into between the parties as compromise has been made out outside the court.

3. It has been submitted by learned counsel for the applicant that the applicant has been falsely implicated in the present case. It has been next

submitted that in the first information report, there is no mention of causing firearm injury against the applicant. No specific role of causing firearm injury has been assigned to any accused in the charge-sheet. It has been further submitted that at the time of clash between the parties, somehow injury was caused to informant, Akhilesh. It has also been submitted that the first information report was registered as Case Crime No. 116 of 2014 u/s 323, 366 I.P.C. against the applicant and co-accused, Yashveer Singh Verma regarding causing injury and abduction of informant Rahul Kumar's sister, Meera Devi. It has been also submitted that the alleged firearm injuries have been caused on left upper arm and left arm joint of injured, Akhilesh which is clear from the medical examination report (Annexure No. 8). The injuries are not caused on vital part of body. It has been further submitted that the applicant married to Meera Devi on 03.05.2014 and their marriage registration certificate is filed as Annexure No. 3 to the affidavit filed in support of the application. It has been further submitted that on the basis of the statement u/s 164 Cr.P.C. of Meera Devi, Section 366 I.P.C. was deleted and charge-sheet was filed u/s 323, 325 & 307 I.P.C. It has also been submitted that informant, Rahul Kumar and opposite party no. 2, Akhilesh have settled their dispute out of court and they do not want to pursue the criminal proceeding against the applicant. The applicant and opposite party no. 2 have filed the compromise deed with informant, Rahul Kumar and Akhilesh which have been attached as Annexure Nos. 11 and 12 to the affidavit filed in support of the bail application. It has also been submitted that the applicants have not obtained bail in this case. From the perusal of the order sheet of this case, it transpires that the case has not been committed to the court of Sessions and it is pending in the Magistrate court for appearance of accused.

4. Learned counsel for the applicant is directed to file case law, if any, to the effect that u/s 482 Cr.P.C., the Court without finally disposing of the case, can direct the trial court/court of Sessions to decide the bail application of the applicant in the light of law laid down in the case of Amrawati and another Vs. State of U.P. reported in 2004 (57) ALR 290 as well as judgement passed by Hon'ble Apex Court reported in 2009 (3) ADJ 322 (SC) Lal Kamendra Pratap Singh Vs. State of U.P.

5. Put up this case on 28.08.2023 as a fresh case."

4. In pursuance of the order dated 25.07.2023 passed by this Court, learned Judicial Magistrate, Court No.1, Kanpur Dehat, has submitted verification report dated 30.09.2023 along with the copy of compromise and compromise verification order dated 15.09.2023.

5. Perusal of compromise verification order dated 15.09.2023 reveals that 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. Accordingly, compromise has been verified and made part of the record.

6. 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 15.09.2023 passed by the court competent, instant application may be allowed and criminal proceeding initiated against the present applicant may be quashed.

7. 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.*

8. 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."

9. 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 15.09.2023 verifying the compromise took place between the parties, which is duly verified by the court concerned.

10. 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 15.09.2023 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 applicant any more as no dispute remains between the parties.

11. Having considered the compromise verification order dated 15.09.2023 verifying the compromise 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.

12. In view of the aforesaid pronouncements of the Hon'ble Apex Court and in the light of the compromise verification order dated 15.09.2023 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.

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

Order Date :- 9.11.2023/Jitendra