

Court No. - 90

Case :- APPLICATION U/S 482 No. - 19046 of 2023

Applicant :- Mohseen And 7 Others

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

Counsel for Applicant :- Sachin Malik

Counsel for Opposite Party :- G.A.

Hon'ble Dinesh Pathak,J.

1. Heard learned counsel for the applicants, learned AGA for the State and perused the record. No one is present for the opposite party no.2.

2. The present applicants have invoked the inherent power of this Court under Section 482 Cr.P.C. beseeching the quashing of entire proceeding of Case No.6441 of 2023 (State vs. Mohseen and others), under Sections 498-A, 323, 504, 506 and 3/4 D.P. Act and 3/4 of Muslim Women's (Protection of Rights on Divorce Act), 2019, Police Station Lisari Gate, District Meerut, pending in the court of Special Chief Judicial Magistrate, Meerut, on the basis of compromise.

3. It is submitted that the instant matter is arising out of matrimonial discord. 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 23.05.2023, has directed the parties to get their compromise verify. For ready reference order dated 23.05.2023 passed by this Court is quoted hereinbelow:-

"Heard learned counsel for the applicants and learned A.G.A. for the State and perused the record.

The present application u/s 482 Cr.P.C. has been filed for quashing the entire proceeding of case no. 6441 of 2023, State Vs. Mohseen and others, under sections 498-A, 323, 504, 506 and 3/4 of D.P. Act and 3/4 of Muslim Women's (Protection of Rights on Divorce Act) 2019, P.S. Lisari Gate, District Meerut, pending in the court of Special Chief Judicial Magistrate, Meerut on the basis of compromise.

Learned counsel for the applicants has submitted that O.P. No.2 is wife of applicant no.1 and on account of matrimonial discord between the applicants and O.P. No.2, this criminal case was registered against the applicants, however, with the intervention of respected members of both the families and society, parties have amicably settled all their disputes and differences and now they do not have any grievance against each other.

Learned counsel for the applicants has next drawn the attention of the Court to the compromise dated 1.3.2023, drawn between the parties, a copy of which has been annexed as Annexure No. 4 to this application.

Learned counsel for the applicants has next submitted that the said compromise made between the parties be sent for verification by the court below.

In view of the above, both the parties shall appear before the court below within one month on the date fixed by the court below and shall file a copy of the compromise deed, which shall be verified by the court below and shall forward a report to this Court by the next date fixed.

List on 17.7.2023.

Till then no coercive measure shall be taken against the applicants in the aforesaid case."

4. In pursuance of the order dated 23.05.2023, learned Special Chief Judicial Magistrate, Meerut, has submitted verification report dated 12.07.2023 along with compromise verification order dated 05.07.2023.

5. Perusal of verification order dated 05.07.2023 reveals that both the parties were present 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. For ready reference order dated 05.07.2023 is quoted hereinbelow:-

"05.07.2023-

माननीय उच्च न्यायालय, इलाहाबाद द्वारा प्रार्थना अन्तरगत धारा 482 दं०प्र०सं० संख्या 19046/2023 मोहसिन आदि बनाम उ०प्र० राज्य आदि में पारित आदेश दिनांकित 23.05.2023 के अनुपालन में उभयपक्ष न्यायालय के समक्ष उपस्थित आए। प्रथम पक्ष श्रीमती गुलिस्ता की शिनाख्त विद्वान अधिवक्ता श्री समीउद्दीन मेवाती द्वारा की गयी तथा द्वितीय पक्ष मोहसिन, अमरीन, शादाब, तबस्सुम, नफीसा, सोनम, रफीक उर्फ पप्पू एवं वसीम की शिनाख्त उनके विद्वान अधिवक्ता श्री राजेन्द्र कुमार द्वारा की गयी। उभयपक्षों को समझौतानामा पढ़कर सुनाया गया। उभयपक्षों ने समझौतानामा की शर्तों को स्वीकार किया। समझौतानामा माननीय उच्च न्यायालय, इलाहाबाद द्वारा पारित आदेश दिनांक 23.05.2023 के अनुपालन में तसदीक किया जाता है। उक्त की अनुपालन आख्या माननीय उच्च न्यायालय, इलाहाबाद को प्रेषित हो। पत्रावली वास्ते अग्रिम कार्यवाही दिनांक 21.07.2023 को पेश हो।

विशेष मुख्य न्यायिक मजिस्ट्रेट,

मेरठ।"

6. It is submitted by learned counsel for the applicants that in pursuance of the amicable settlement both the parties were separated from the date of

divorce (Talak) dated 30.02.2023. It is further submitted that in the eventuality of the amicable settlement took place between the parties and the verification of the compromise vide order dated 05.07.2023 passed by the court competent, instant application may be allowed and criminal proceeding initiated against the present applicants may be quashed.

7. In view of the above, learned counsel for the applicants 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 05.07.2023 verifying the

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

10. Having considered the compromise application and compromise verification order dated 05.07.2023 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.

11. 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.

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

Order Date :- 8.11.2023

Jitendra