

Court No. - 69

Case :- APPLICATION U/S 482 No. - 29168 of 2022

Applicant :- Pawan Kumar Mishra And 4 Others

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

Counsel for Applicant :- Rajesh Kumar Singh, Krishna Mohan Rai

Counsel for Opposite Party :- G.A., Vivek Kumar Tiwari

Hon'ble Samit Gopal, J.

1. List revised.

2. Heard Sri Krishna Mohan Rai, learned counsel for the applicants, Sri Vivek Kumar Tiwari, learned counsel for the opposite party no.2, Sri Virendra Pratap Singh, learned counsel for the State and perused the records.

3. The present application under Section 482 Cr.P.C. has been filed by the applicants Pawan Kumar Mishra, Dayanand Mishra, Sheela Devi, Chandra Vijay Mishra and Antima Mishra with the prayer to allow the present application and quash the complaint case No. 3533 of 2020, under Sections 498-A, 323, 504, 406 IPC and Section 3/4 of D.P. Act (Smt. Nidhi Devi Vs. Pawan Kumar Mishra and others), Police Station Kotwali Sadar, District Deoria, pending in the court of learned Civil Judge (Junior Division)/FTC, Court No.2, Deoria as well as summoning order dated 03.01.2022 and with the further prayer to stay the entire proceeding of aforesaid case, during the pendency of present application.

4. On 28.08.2023 the following order was passed by this Court:-

"1. List revised.

2. Sri Rajesh Kumar Singh, learned counsel for the applicants, Sri Vivek Kumar Tiwari, learned counsel for the opposite party no.2 and Sri Ajay Singh, learned A.G.A-I for the State are present.

3. Learned counsel for the applicant prays for a month's time to pay Rs.4,00,000/- to the opposite party no.2 as per para 7(d) of the settlement agreement dated 30.7.2023.

4. Prayer is allowed.

5. Let the matter be listed on 4.10.2023.

6. *Interim order, if any, shall remain in currency till the next date of listing."*

5. Learned counsel for the applicants has produced before the Court four drafts drawn payable to Nidhi Upadhyay of Rs. 1 lakh each dated 26.10.2023, the photocopies of the same have been produced before the Court which are taken on record. He states that Rs. 4 lakhs was decided to be paid to the opposite party no.2 as the remaining amount before this Court. Four drafts have been handed over by Sri Krishna Mohan Rai, Advocate, learned counsel for the applicants to Sri Vivek Kumar Tiwari, Advocate learned counsel for the opposite party no.2 to be given to the opposite party no.2 Nidhi Upadhyay. Sri Upadhyay has signed on the order sheet as a proof of receipt of the same.

6. The matter was referred to the Mediation Centre of this Court vide order dated 09.11.2022 for making an effort between the parties for settling their disputes amicably.

7. As per the office report dated 26.08.2023, a report from the Mediation Centre of this Court is on record.

8. As per report of Mediation Centre dated 30.07.2023 the parties have entered into an interim settlement dated 19.03.2023, 02.07.2023 and have amicably settled their dispute and further agreed to withdraw the cases going on between them.

9. From perusal of the report of Mediation Centre of this Court, it appears that in pursuance of the said order the mediation proceedings were taken up which ended in a settlement dated 30.07.2023 between the parties and the Mediation succeeded. The parties have settled their grievances and even the dispute arising in the present matter. The parties have agreed to withdraw the cases going on between them, the said fact is mentioned in para 7-e of the said mediation report.

10. The law with regards to quashing of a case on the basis of settlement arrived between the parties, is well settled. The Apex Court in the cases of **(1) B.S. Joshi and others Vs. State of Haryana and another: (2003)4 SCC 675; (2) Nikhil Merchant Vs. Central Bureau of Investigation : (2008) 9 SCC 677; (3) Manoj Sharma Vs. State and others: (2008) 16 SCC 1; (4) Gian Singh Vs. State of Punjab: (2012) 10 SCC 303; (5) Shaifullah and others Vs. State of U.P. And another: 2013 (83) ACC 278 and (6) Parbatbhai Ahir@Parbatbhai @ Bhimsinbhai Karmur and others Vs. State of Gujarat and another: (2017) 9 SCC 641** has held that the cases in which the

parties have settled their grievances can be quashed.

11. From perusal of the records and the law laid down by the Apex Court on the subject matter, the present case is a good case for exercising powers by this Court to quash the proceedings as prayed for by the applicant(s).

12. The present application is **allowed**.

13. The complaint case as well as summoning order dated 03.01.2022 passed in the aforesaid case are hereby quashed.

Order Date :- 30.10.2023

M. ARIF

(Samit Gopal, J.)