

Court No. - 91

Case :- APPLICATION U/S 482 No. - 28445 of 2021

Applicant :- Madho Singh And 9 Others

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

Counsel for Applicant :- Anup Swaroop Srivastava

Counsel for Opposite Party :- G.A.

Hon'ble Gajendra Kumar,J.

Heard learned counsel for the applicants and learned AGA for the State.

The instant application under Section 482 Cr.P.C. has been filed by the applicants for quashing the charge sheet dated 21.05.2021 along with cognizance/summoning order dated 09.09.2021 as well as entire proceeding of P.S.T. No. 1729 of 2021, arising out of Case Crime No. 177 of 2020, under Sections 147, 148, 149, 307, 452, 354 (Kha), 336, 427 IPC and 7/8 POCSO Act, P.S.-Khairgarh, District Firozabad, pending in the Court of Special Judge (POCSO Act), Firozabad, on the basis of compromise.

The parties, out of their own free will, have settled their dispute amicably and in furtherance thereof, they have filed a compromise deed dated 06.10.2021 annexed in the affidavit. Thereafter, this Court, vide order 15.03.2022, has sent the said compromise deed to the trial court with a direction to get the same verified and submit a report.

Learned counsel for the parties have not disputed the fact that the parties have settled their dispute amicably and they have filed compromise deed dated 07.04.2022 and the same has been verified by the trial Court, vide order dated 07.04.2022, a copy of which has been annexed in the order sheet.

Hon'ble Supreme Court in **Parbatbhai Aahir @ Parbatbhai Bhimsinhbhai Karmur and Others Vs. State of Gujarat and another, (2017) 9 SCC 641** has laid down the following guidelines with regard to quashing of criminal proceedings as well regarding compromise in criminal proceedings in paragraphs 16 to 16.10 of the judgement, which is quoted below:

"16. The broad principles which emerge from the precedents on the subject, may be summarised in the following propositions.

16.1. Section 482 preserves the inherent powers 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 recognizes and preserves powers which inhere in the High Court;

16.2. 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.

16.3. 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;

16.4. 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;

16.5. 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;

16.6. In the 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 appropriately 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;

16.7. 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 in so far as the exercise of the inherent power to quash is concerned;

16.8. 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;

16.9. 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

16.10. There is yet an exception to the principle set out in propositions 16.8 and 16.9 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."

The Hon'ble Supreme Court in **Criminal Appeal No. 1489 of 2012 (Ramgopal and Another Vs. The State of M.P.)**, 2021 SCC OnLine SC 834, has reiterated the guidelines regarding quashing of criminal proceedings in view of compromise. Following has been observed in paragraph 18-19:-

"18. It is now a well crystalized axiom that plenary jurisdiction of this Court to impart complete justice under Article 142 cannot ipso facto be limited or restricted by ordinary statutory provisions. It is also noteworthy that even in the absence of an express provision akin to Section 482 Cr.P.C. conferring powers on the Supreme Court to abrogate and set aside criminal proceedings, the jurisdiction exercisable under Article 142 of the Constitution embraces this Court with scopious powers to quash criminal proceedings also, so as to secure complete justice. In doing so, due regard must be given to the overarching objective of sentencing in the criminal justice system, which is grounded on the sub-lime philosophy of maintenance of peace of the collective and that the rationale of placing an individual behind bars is aimed at his reformation.

19. We thus sum-up and hold that as opposed to Section 320 Cr.P.C. where the Court is squarely guided by the compromise between the parties in respect of offences 'compoundable' within the statutory framework, the extra-ordinary power enjoined upon a High Court under Section 482 Cr.P.C. or vested in this Court under Article 142 of the Constitution, can be invoked beyond the metes and bounds of Section 320 Cr.P.C. Nonetheless, we reiterate that such powers of wide amplitude ought to be exercise carefully in the context of quashing criminal proceedings, bearing in mind: (i) Nature and effect of

the offence on the conscious of the society; (ii) Seriousness of the injury, if any; (iii) Voluntary nature of compromise between accused and the victim; & (iv) Conduct of the accused persons, prior to and after the occurrence of the purported offence and/or other relevant considerations."

(Emphasis supplied)

Considering the aforesaid facts and circumstances of the present case, submissions made by counsel for parties and upon the perusal of material on record, it appears that during pendency of the present application, parties have already settled their dispute voluntarily and amicably. Compromise so entered into by parties have been verified by learned Court below. This fact has not been denied by learned counsel for opposite parties. As such, on date, no difference exists between parties. From perusal of record there appears that the offence relates to under Sections 147, 148, 149, 307, 452, 354 (Kha), 336, 427 IPC and 7/8 POCSO Act, which are neither heinous nor serious offence involving mental depravity. Consequently, this Court is of the considered opinion that no useful purpose shall be served by prolonging the proceedings of above mentioned cases. In view of compromise entered into by the parties, chances of conviction of accused applicants are also remote and bleak. Resultantly, continuation of proceedings would thus, itself cause injustice to parties. The instant trial would only entail loss of precious judicial time in a futile pursuit.

In view of above, the instant application succeeds and is liable to be allowed.

Accordingly, the entire proceeding of charge sheet dated 21.05.2021 along with cognizance/summoning order dated 09.09.2021 as well as entire proceeding of P.S.T. No. 1729 of 2021, arising out of Case Crime No. 177 of 2020, under Sections 147, 148, 149, 307, 452, 354 (Kha), 336, 427 IPC and 7/8 POCSO Act, P.S.-Khairgarh, District Firozabad, pending in the Court of Special Judge (POCSO Act), Firozabad, is, hereby, quashed.

The instant application under Section 482 Cr.P.C. is allowed.

Office is directed to send a copy of this order to the Court concerned through email/fax immediately for necessary compliance.

Order Date :- 16.10.2023
v.k.updh.