

Court No. - 86

Case :- APPLICATION U/S 482 No. - 35252 of 2023

Applicant :- Yaseen And 2 Others

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

Counsel for Applicant :- Satya Prakash, Sunil Kumar
Srivastava

Counsel for Opposite Party :- G.A., Shubham Srivastava

Hon'ble Rajiv Gupta, J.

1. Shri Shubham Srivastava, Advocate has filed his vakalatnama along with short counter affidavits on behalf of opposite party nos.2 & 3 today in Court, which are taken on record.

2. Heard learned counsel for the applicants, learned AGA for the State, Shri Shubham Srivastava, learned counsel for the opposite party nos.2 & 3 and perused the record.

3. Learned counsel for the applicants has submitted that on account of sudden quarrel between the parties, an FIR was lodged by one Ashok Kumar, in which, four accused including one Faizan were nominated as an accused. It has further alleged in the FIR that said four persons had assaulted his brother Rajpal and one Faizan, who was armed with *Balkati*, had hit Rajpal on his head, consequent to which, he suffered injuries. On the basis of the said allegations, the FIR was lodged.

4. Perusal of the record further shows that victim Rajpal was medically examined and as per the medical report, he has suffered only a single injury on his head. Thereafter, statement of first informant Ashok Kumar was recorded and in the said statement, he has reiterated the fact that Faizan had assaulted his brother Rajpal by a *Balkati* on his head, consequent to which, he suffered single injury, however, it appears that subsequently, statement of victim Rajpal was recorded, in which, he has categorically stated that Faizan was not present at the place of incident and only three accused persons Yaseen, Zameen and Mohd. Raza @ Nanu had assaulted him. Even in his statement under Section 164 CrPC, he reiterated the same story and completely exonerated co-accused Faizan to have participated in the said incident.

5. Pursuant to the said material collected during the course of investigation, Investigating Officer exonerated the co-accused Faizan from the said incident and charge-sheet was submitted only against the applicants Yaseen, Zameen and Mohd. Raza @ Nanu, who were summoned to face trial.

6. Learned counsel for the applicants has next submitted that subsequently, first informant Ashok Kumar as well as injured- victim Rajpal entered into a compromise with the accused persons-applicants, a copy of said compromise has been filed as Annexure 5 to this application.

7. Learned counsel for the applicants has next submitted that from the entire material available on record, the prosecution story appears to be highly doubtful regarding participation of the accused persons-applicants in the said incident.

8. As per the allegations made in the FIR and the statement of first informant Ashok Kumar, the single injury suffered by the victim Rajpal was caused by Faizan, however, victim Rajpal in his statement stated that Faizan in fact was not present at the scene of incident and he has been falsely implicated in the present case. General, vague and omnibus allegations have been made against the applicants that they jointly caused a single injury to the victim.

9. Subsequently, the parties have also entered into a compromise supported by an affidavit and in the said compromise, it has been stated that at the time of incident, a large number of persons had assembled, as such, the actual assailants could not be identified but the applicants have not caused any injury to the victim.

10. Learned counsel for the applicants has next submitted that in view of the said compromise made between the parties, the entire proceedings be quashed.

11. Learned counsel for the opposite party nos.2 & 3 has also appeared and has filed affidavits on behalf of first informant Ashok Kumar as well as injured Rajpal, in which, it has been stated that on account of sudden quarrel between the parties, the present incident had occurred and on account of huge crowd, assembled there at the time of incident, the person, who actually assaulted the victim, could not be identified and the FIR was lodged on misgivings and misunderstanding nominating Faizan as the main accused. In para 5 of the said affidavit, the compromise made between the parties has been acknowledged. Further in para

10, it has been stated that injured Rajpal as well as first informant Ashok Kumar has no objection, if the entire proceedings are quashed against the applicants on the basis of the said compromise.

12. Learned AGA could not dispute the aforesaid facts.

13. This Court is not unmindful of the judgements of the Hon'ble Apex Court in the cases of:-

(i). B.S. Joshi and others Vs. State of Haryana and another, (2003) 4 SCC 675.

(ii). Nikhil Merchant Vs. Central Bureau of Investigation, (2008) 9 SCC 677.

(iii). Manoj Sharma Vs. State and others, (2008) 16 SCC 1.

(iv). Gian Singh Vs. State of Punjab, (2012) 10 SCC 303.

(v). Narindra Singh and others Vs. State of Punjab, (2014) 6 SCC 466.

(vi). State of M.P. Vs. Laxmi Narayan (2019) 5 SCC 688.

14. Wherein Hon'ble Apex Court has categorically held that compromise can be made between the parties even in respect of certain cognizable and non-compoundable offences. Reference may also be made to the decision given by this Court in **Shaifullah and others Vs. State of U.P. and another [2013 (83) ACC 278]**, in which, law expounded by Hon'ble Apex Court in the aforesaid cases has been explained in detail.

15. Considering the facts and circumstances of the case, as noted herein above, and also the submissions made by learned counsel for the parties, this Court is of the considered opinion that no useful purpose would be served by prolonging the proceedings of the instant case.

16. Accordingly, the entire proceedings of Case No. 4900 of 2022 [Old No. 4575 of 2021] (State of U.P. Vs. Yaseen and Others), arising out of Case Crime No. 28 of 2021, under Sections 323, 324, 352, 504, 506, 308 IPC, Police Station Gangoh, District Saharanpur, pending in the court of Additional Chief Judicial Magistrate-IIIrd, Saharanpur, are hereby quashed.

17. This application under Section 482 CrPC is accordingly **allowed.**

Order Date :- 3.11.2023

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