

Court No. - 67

Case :- CRIMINAL MISC. WRIT PETITION No. - 15081 of 2023

Petitioner :- Naresh Kumar

Respondent :- State Of U.P. And 4 Others

Counsel for Petitioner :- Shri Krishan Yadav

Counsel for Respondent :- G.A.,Amit Saxena,Ramesh Kumar Saxena

Hon'ble Rahul Chaturvedi,J.

Hon'ble Mohd. Azhar Husain Idrisi,J.

Joint Supplementary affidavit filed today is taken on record.

Heard Shri Shri Krishan Yadav, learned counsel for the petitioner and Shri Ramesh Kumar Saxena, learned counsel for the informant-respondent no.4 as well as learned A.G.A for the State. Perused the record.

The prayer sought by means of the present writ petition is to quash the impugned First Information Report dated 27.8.2023, arising out of Case Crime No.503 of 2023, under Sections 420, 383 I.P.C., Police Station-Akrabad, District-Aligarh.

On the earlier occasion i.e. on 25.9.2023, this Court had passed the following order:-

"Joint compromise affidavit filed today, which is taken on record.

Heard Sri Shri Krishan Yadav, learned counsel for the petitioner, Sri Ramesh Kumar Saxena, learned counsel for the respondent nos. 4 & 5 as well as learned A.G.A. for the State and perused the record.

By means of the present writ petition under Article 226 of the Constitution of India, the petitioner is assailing the legality and validity of the FIR dated 27.08.2023 registered as Case Crime No.503 of 2023, under sections 420, 383 I.P.C., P.S. Akrabad, District Aligarh.

Contention raised by the learned counsel for the petitioner that though the FIR lodged by the respondent no. 4 namely, Roshan Kumar against the petitioners Naresh Kumar and ARTO for the alleged cheating and deceit. When the case was taken up both the counsels Sri S.K. Yadav and R.K. Saxena have filed joint compromise affidavit sweared by Naresh Kumar, Roshan Kumar and Sonu Rathur spell out that during pendency of the

investigation the misunderstanding has been cropped up between the parties leading to lodging the instant FIR with the help of mediators, they have sorted out the misgivings between them and not there is no bread breath or inimical relationship between the petitioners and respondents. The respondent does not want to pursue his FIR against the petitioner.

Be it so, the parties are required to appear before the CJM, Aligarh on or before 10th October, 2023 along with the compromise affidavit (with the certified copy of the compromise affidavit) filed today in the Court.

The CJM, concerned shall summon all the stake holders of the affidavits and spell out and explain contents of the compromise and thereafter pass a suitable orders on the said compromise which shall be filed by means of the supplementary affidavit on or before 16th October, 2023.

Put up this case as fresh on 18th October, 2023 so as to further orders may be passed in this case.

Keeping in view the nature and gravity of the offence coupled with the fact that the parties landed on settlement between the parties, pro-active approach should be adopted by the law courts.

Till the next date of listing, the interest of the petitioners are protected and they shall not be arrested, in FIR dated 27.08.2023 registered as Case Crime No.503 of 2023, under sections 420, 383 I.P.C., P.S. Akrabad, District Aligarh."

Pursuant to aforesaid order, when the case is taken up today, learned counsel for contesting parties filed a joint compromise affidavit, sworn by Roshan Kumar (the informant), Naresh Kumar and Sonu Rathor.

In compliance of aforesaid order, the contesting parties have appeared before the court concerned for verification of compromise, whereby the C.J.M., Aligarh has verified the compromise deed, its covenants and the signatories by order dated 5.10.2023 in the presence of their respective counsels. Order of verification of compromise dated 05.10.2023 is annexed as Annexure-SA-2 along with the joint supplementary affidavit.

Learned counsel for the applicants submitted that since the matter has been compromised between the parties and they have settled down the dispute amicably outside the court, therefore, under these changed circumstances, the impugned F.I.R. and the proceeding emanating therefrom may be quashed in the light of compromise jotted down between the parties.

Learned counsel for the respondents has also nodded in affirmative, confirming the factum of compromise between the

parties. He submits that he has instructions from his clients not to oppose this writ petition and the respondent-informant has no objection, if the impugned F.I.R. as well as its proceeding are quashed.

Learned counsel for the applicants has drawn my attention to the relevant paragraphs of judgments:-

- 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. *Shiji @ Pappu and Others VS. Radhika and Another*, (2011) 10 SCC 705**
- 5. *Gian Singh Vs. State of Punjab* (2012) 10 SCC 303**
- 6. *K. Srinivas Rao Vs. D.A Deepa*, (2013) 5 SCC 226**
- 7. *Dimpey Gujral and others Vs. Union Territory through Administrator, U.T. Chandigarh and others*, (2013) 11 SCC 497**
- 8. *Narindra Singh and others Vs. State of Punjab* (2014) 6 SCC 466**
- 9. *Yogendra Yadav and Ors. Vs. State of Jharkhand and another* (2014) 9 SCC 653**
- 10. *C.B.I. Vs. Maninder Singh* (2016) 1 SCC 389**
- 11. *C.B.I. Vs. Sadhu Ram Singla and Others*, (2017) 5 SCC 350**
- 12. *Parbatbhai Aahir @ Parbatbhai Bhimsinhbhai Karmur and Others Vs. State of Gujarat and another*, (2017) 9 SCC 641**
- 13. *Anita Maria Dias and Ors. Vs. State of Maharashtra and Others*, (2018) 3 SCC 290**
- 14. *Social Action Forum For Manav Adhikar and Another Vs. Union of India and others*, (2018) 10 SCC, 443 (Constitution Bench)**
- 15. *State of M.P. VS. Dhruv Gurjar and Another*, (2019) 5 SCC**

16. State of M.P. V/s Laxmi Narayan & Ors., (2019) 5 SCC 688

17. Rampal Vs. State of Haryana, AIR online 2019 SC 1716

18. Arun Singh and Others VS. State of U.P. and Another (2020) 3 SCC 736

19. Criminal Appeal No. 1489 of 2012 (Ramgopal and Another Vs. The State of M.P.), 2021 SCC OnLine SC 834.

Summarizing the ratio of all the above cases the latest judgment pronounced by Hon'ble Apex Court in Criminal Appeal No. 1723/2017 arising out of SLP (Crl.) No. 9549/2016, the Full Bench of the Hon'ble Apex Court in the case of "**PARBATBHAI AAHIR @ PARBATBHAI BHIMSINHBHAI KARMUR AND OTHERS. VS. STATE OF GUJARAT AND ANOTHER**", decided on 4th October, 2017, Hon'ble Dr. D.Y. Chandrachud J. delivering the judgment on behalf of the Full Bench has summarized the broad principles with regard to exercise of powers under Section 482 Cr.P.C. in the case of compromise/settlement between the parties. Which emerges from precedent of the subjects as follows:-

i. "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.

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 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;

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

viii. Criminal cases involving offences which arises 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."

With the assistance of the aforesaid guidelines, keeping in view the nature and gravity and the severity of the offence which are more particularly in private dispute and difference, we deem it proper and to meet the ends of justice that the impugned F.I.R. and its consequential proceeding be quashed.

The present writ petition stands ALLOWED. Keeping in view the compromise arrived at between the contesting parties, the impugned F.I.R. as well as the proceeding emanating therefrom against the applicants, are hereby quashed.

Let a copy of this order may be transmitted to the concerned lower court within 20 days.

Order Date :- 18.10.2023

M. Kumar