

Court No. - 86

Case :- APPLICATION U/S 482 No. - 36898 of 2023

Applicant :- Nilesh Dwivedi

Opposite Party :- State Of U.P.And 2 Others

Counsel for Applicant :- Kamalendra Kumar Maurya

Counsel for Opposite Party :- G.A.

Hon'ble Rajiv Gupta,J.

1. Shri Raj Nath Yadav, Advocate has filed his vakalatnama along with short counter affidavit on behalf of opposite party nos.2 & 3 today in Court, which is taken on record.
2. Heard learned counsel for the applicant, learned AGA for the State, Shri Raj Nath Yadav, learned counsel for the opposite party nos.2 & 3 and perused the record.
3. Learned counsel for the applicant has submitted that applicant is the uncle of opposite party nos.2 & 3 and on account of sudden quarrel over partition of land between the parties, the instant criminal case was instituted against the applicant, however subsequently, with the intervention of respected members of both the family and the society, the parties have amicably and genuinely settled their all disputes and differences and now, they do not have any grievance against each other.
4. Learned counsel for the applicants has next drawn the attention of the Court to the compromise deed dated 31.01.2023 drawn between the parties, a copy of which has been annexed as Annexure 7 to this application.
5. Learned counsel for the applicant has next submitted that pursuant to the said compromise deed dated 31.01.2023 drawn between the parties, the applicant had approached this Court by filing an Application U/s 482 No. 28200 of 2023 (Nilesh Dwivedi Vs. State of U.P. and Another) and this Court vide its order dated 10.08.2023 had directed the parties to appear before the court below and file a copy of compromise deed made between the parties, which shall be verified by the court below and a verification report be sent to this Court.
6. Learned counsel for the applicant has next submitted that pursuant to the said order dated 10.08.2023, the parties appeared before the court below and filed a fresh

compromise deed dated 28.08.2023, which has been verified by the court below in presence of both the parties, who had appended their signatures on the said compromise deed.

7. Learned counsel for the applicant has next drawn the attention of the Court to the injuries suffered by opposite party nos.2 & 3 Avnish Dwivedi and Ankit Dwivedi. Injured Avnish is said to have received four injuries and except injury no.1, all his injuries have been noted to be simple in nature and as per the radio-logical examination, there has been a hairline fracture. So far as the injuries of another injured Ankit is concerned, their injuries have been noted to be simple in nature and his X-Ray report shows that there was no abnormality detected.

8. Learned counsel for the applicant has next submitted that in view of the said compromise made between the parties and in order to maintain harmonious and cordial relations between them, the entire proceedings of the present case be quashed.

9. Learned counsel for the opposite party nos.2 & 3 has also appeared and has filed an affidavit on behalf of opposite party nos.2 & 3 and in para 4 of the said affidavit, the compromise made between the parties has been acknowledged. Further in para 5, it has been stated that opposite party nos.2 & 3 do not want to further prosecute the applicant and in para 6, it has been stated that opposite party nos.2 & 3 have no objection, if the entire proceedings are quashed.

10. Learned AGA could not dispute the aforesaid facts.

11. 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.

12. 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.

13. 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 present case.

14. Accordingly, the entire proceedings of Session Trial No. 153 of 2021 (State Vs. Nilesh Dwivedi), arising out of Case Crime No. 138 of 2020, under Sections 308, 323, 504, 506 IPC, Police Station Mohabbatpur Paisa, District Kaushambi, pending in the court of Additional Sessions Judge, Court No.1, Kaushambi, are hereby quashed.

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

Order Date :- 7.11.2023

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