

Court No. - 90

Case :- APPLICATION U/S 482 No. - 37583 of 2023

Applicant :- Anand Pandey

Opposite Party :- State Of Up Through Chief Secretary Up And Another

Counsel for Applicant :- Rahul Mishra, Sanjay Mishra

Counsel for Opposite Party :- G.A.

Hon'ble Dinesh Pathak, J.

1. Shri Anil Kumar Mishra, Advocate states that he has filed memo of appearance on behalf of respondent no.2 today in the registry. Heard Shri Rahul Mishra, learned counsel for the applicant, Shri Anil Kumar Shukla, learned counsel for respondent no.2 as well as learned A.G.A. and perused the record.

2. The applicant has invoked the inherent jurisdiction of this Court under Section 482 Cr.P.C. to quash the entire proceedings arising out of Complaint Case No.4974 of 2018 (Smt. Pragya Tiwari vs. Anand Pandey & Others) under Section 498A, 323, 504, 506 I.P.C. and Section 3/4 D.P. Act, Police Station Kotwali Lalitpur, District Lalitpur as well as summoning order dated 27.11.2019 passed by Chief Judicial Magistrate, Lalitpur.

3. It is submitted that instant matter is arising out of matrimonial discord. Having been aggrieved with the alleged behaviour of in-laws, respondent no.2 (wife) has lodged a complaint dated 17.10.2018 being Complaint Case No.4974 of 2018. Learned Magistrate, vide order dated 27.11.2019, has issued process against the present applicant (husband) under Section 498-A, 323, 504, 506 I.P.C. and 3/4 D.P. Act. In the meantime, proceeding under Section 125 Cr.P.C. has also been instituted by respondent no.2. In application under Section 482 Cr.P.C. arising out of proceeding under Section 125 Cr.P.C., the matter was referred to Mediation and Conciliation Centre of this Court. After process of mediation, both the parties have inked compromise/settlement agreement dated 06.05.2022, accordingly, Application under Section 482 Cr.P.C. No.9493 of 2021, arising out of proceeding under Section 125 Cr.P.C. has been finally decided vide order dated 06.02.2023 (Annexure-2 to this application). On the aforesaid premise, learned counsel for the parties has urged to decide the instant application as well. The settlement agreement dated 06.05.2022 is quoted herein below :-

"ALLAHABAD HIGH COURT MEDIATION AND CONCILIATION

CENTRE INTERIM SETTLEMENT AGREEMENT

This INTERIM SETTLEMENT AGREEMENT entered into on 06.05.2022. between Sri Arand Pandey (Applicant-Husband) and Smt. Pragya Tiwari 'O.P. No.2-Wife)

WHEREAS

- 1) Disputes and differences had arisen between the Parties hereto Application U/S 482 No. 9493 of 2921 was filed before the Hon'ble High Court.*
- 2) The matter was referred to mediation/conciliation vide order dated 20.05.2021 passed by bench of Hon'ble Shekhar Kumar Yadav, J.*
- 3) The parties agreed that Mr. Harbansh Singh and Mr. Ashok Kumar Pandey, Advocates would act as their Conciliator/Mediator, in the Mediation Case No. 0255/2022.*
- 4) Several joint and separate meetings were held during the process of Conciliation/Mediation on 25-03-2022 and 06-05-2022 voluntarily arrived at an amicable solution resolving the above-mentioned disputes and differences.*
- 5) The marriage of Sri Anand Pandey (Applicant Husband) and Sm. Pragya Tiwari (O.P. No 2-Wife) was solemnized on 11.02.2018. Out of aforesaid wedlock the parties have no Issue. They were started living separately since 15.04.2018.*
- 6) The parties hereto confirm and declare that they have voluntarily and of their own free will rived at this Settlement Agreement in the presence of the Mediators Conciliators*
- 7) The following settlement has been arrived at between the Parties hereto:-*
 - a) That the parties have decided to take divorce by filing a peution a/s 13-8 of the Hindu Marriage Act before the Family Court, Lalitpur within 10 days from today and shall produce certified copy of the divorce petition before the Centre on the next date fixed I.e. 27.05.2022,*
 - b) That it has been agreed between the parties that the applicant-husband shall pay one time settlement amount of Rs.4,00,000/- (Rupees Four Lakh only) which includes permanent alimony and Stridhan of the wife by way of Demand Draft.*
 - c) That today i.e. 06.05.2022 the applicant-husband has produced a Demand Draft bearing no. 505224 dated 11.04.2022 for Rs.3,00,000/- (Rupees Three Lakh only) drawn on Union Bank of India in favour of Pragya Tiwari (wife), which is being kept in the file of the Mediation Centre with the consent of the parties and shall be handed over to the wife on 27.05.2022 at the time of final settlement-agreement.*
 - d) That it has been agreed between the parties that the remaining amount i.e. Rs. 1,00,000 (Rupees One Lakh only) will be paid by the husband to the wife by way of Demand Draft at the time of final judgment in the divorce petition before the Family Court Lalitpur.*
 - e) That it has been agreed between the parties that the cases filed by them against each other will be kept in abeyance during this Intervening period.*
 - f) That it has been agreed between the parties that they shall appear again before the Centre of 27.05.2022.*

DATE: 06.05.2022”

4. It is further submitted that both the parties have voluntarily entered into settlement agreement without any duress. and they have buried the hatchet. They are peacefully living separately and the divorce petition under Section 13-B of Hindu Marriage Act being Matrimonial Case No.129 of 2022 is pending consideration before the Family Court, Lalitpur. It is lastly submitted that respondent no.2 has already moved an application dated 06.10.2022 (Annexure S.A.-1 to the supplementary affidavit dated 02.12.2023) showing her intention to withdraw the criminal proceeding against the present applicant on the basis of compromise inked between the parties.

5. It is submitted by learned counsel for the applicant that in the above eventuality of amicable settlement took place between the parties, instant application may be allowed and the entire proceedings may be quashed. It is further submitted that both the parties have entered into compromise out of their own volition without any duress and buried the hatchet. There is no grudges between them against each other. To quash the cognizance order as well as criminal proceeding, learned counsel for the applicant has relied upon the following judgments of the Hon'ble Apex Court:-
(i) B.S.Joshi & Others Vs. State of Haryana & Others; (2003) 4 SCC 675. (ii) Nikhil Merchant Vs. Central Bureau of Investigation; (2008) 9 SCC 667. (iii) Manoj Sharma Vs. State & Others; (2008) 16 SCC 1. (iv) Gyan Singh Vs. State of Punjab (2012) 10 SCC 303. (v) Narindra Singh & Others Vs. State of Punjab (2014) 6 SCC 466.

6. In a recent judgment passed by a Three Judges' Bench of the Apex Court in the Case of **Parbatbhai Aahir alias Parbatbhai Bhimsinhbhai Karmur and others Vs. State of Gujarat and another**, reported in **AIR 2017 SC 4843**, Hon'ble Supreme Court has summarized the ratio of all the cases decided earlier with respect to quashing of F.I.R./charge-sheet/criminal proceeding on the ground of settlement between the parties and expounded the ten categories in which application under Section 482 could be entertained for quashing the F.I.R./charge-sheet/criminal proceeding on the basis of compromise. Para no. 15 of the said judgement summarizing the proposition in this respect is reproduced below :-

"15. (i) Section 482 preserves the inherent power 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 recognises 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 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 approximately 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 insofar as the exercise of the inherent power to quash is concerned; (viii) 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; (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 misdemeanor. The consequences of the act complained of upon the financial or economic system will weigh in the balance."

7. Learned A.G.A. has no objection, in case, the instant application is decided by this Court on the basis of compromise took place between the parties, which is duly verified by the court concerned.

8. Learned counsel for the opposite party No. 2 has nodded the factum of the compromise entered into between the parties and he has no objection, if the instant application is decided finally on the basis of the said compromise. He also submits that compromise was verified in presence of both the parties, who have voluntarily entered into compromise and opposite party no. 2 does not want to prosecute the present case against the applicant any more as no dispute remains between the parties.

9. Having considered the settlement agreement dated 06.05.2022 took place between the parties and with the assistance of the aforesaid guidelines, keeping in view the nature of gravity and severity of the offence, which are more particular in private dispute, it is deemed proper that in order to meet the ends of justice, the present proceeding should be quashed. In result, dispute between the parties will put to an end, peace will be resorted and relationship between them will be smooth. No useful purpose would be served to keep the present matter pending inasmuch as both the parties have buried the hatchet and as the time passes, it will be difficult to prove the guilt of the accused. The continuation of criminal proceeding would cause oppression and prejudice.

10. In view of the aforesaid pronouncements of the Hon'ble Apex Court and in the light of the settlement agreement inked between the parties, the present application under Section 482 Cr.P.C. is hereby allowed. The entire criminal proceeding of the aforementioned case is hereby quashed.

11. Let a copy of the order be transmitted to the concerned lower Court for necessary action.

Order Date :- 15.12.2023

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