

Neutral Citation No. - 2023:AHC:226946

Court No. - 90

Case :- APPLICATION U/S 482 No. - 39116 of 2023

Applicant :- Sandip Yadav

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

Counsel for Applicant :- Ankit Kapoor

Counsel for Opposite Party :- G.A.

Hon'ble Dinesh Pathak,J.

1. Short counter affidavit along with memo of appearance filed by Sri Prashant Pandey, learned Advocate on behalf of Opposite Party No. 3 is taken on record.
2. Office is directed to print the name of Sri Prashant Pandey as learned counsel for Opposite Party No. 2.
3. Heard learned counsel for the applicant, learned counsel for Opposite Party No. 2, learned AGA and perused the record.
4. The present applicants have invoked the inherent power of this Court under Section 482 CrPC beseeching the quashing of entire criminal proceeding of Special Session Trial No. 353 of 2022 (State Vs. Sandip Yadav) arising out of Case Crime No. 32 of 2022, under Sections 323, 504, 506 I.P.C. and 3(1)(Da), 3(1)(Dha), 3(2)(Va) S.C./S.T., Police Station Phoolpur, District Varanasi pending in the court of Special Judge, S.C./S.T. Act, Varanasi on the basis of compromise.
5. It has been submitted that during pendency of the proceeding, both the parties have arrived at a compromise and amicably settled their dispute out of the Court.
6. Having considered the amicable settlement between the parties, this Court, vide order dated 8.8.2023 (Annexure-7), has issued a direction to the parties concerned in Application under Section 482 No. 27726 of 2023 to appear before the court below and get their compromise verified. For ready reference, order dated 8.8.2023 is quashed hereinbelow:

"Heard learned counsel for applicant, learned counsel for opposite party no. 2 and the learned A.G.A.

This application under Section 482 Cr.P.C. has been filed for quashing the entire criminal proceeding of Special Session Trial No. 353 of 2022 (State vs. Sandip Yadav), arising out of Case Crime No. 32 of 2022, under Sections 323, 504, 506 IPC and 3 (1) (Da) 3 (1) (Dha) 3 (2) (Va) SC/ST Act, P.S. Phoolpur, District Varanasi, on the basis of compromise dated 21.03.2023.

Learned counsel for the applicants submits that the applicant and the opposite party no. 2 have reconciled their differences and a compromise has been entered between them, and the compromise deed is annexed as annexure-8 to the affidavit. Therefore, no useful purpose would be served in continuing the proceedings before the court below and the same is not only sheer wastage of time of the Court but also abuse of process of law.

Learned AGA, however, submits that it is the concerned court below, which has to verify the fact as to whether the parties have entered into compromise, hence the applicants may approach the concerned court below and move an application along with copy of compromise between the parties, which will be decided in accordance with law.

In view of the above, the applicant and the opposite party no. 2 are directed to appear before the court below along with compromise and an application for verification of compromise deed so filed as well as a certified copy of this order within two weeks from today. It is expected that the trial court may fix a date for the verification of the compromise and after ensuring their presence, pass an appropriate order with respect to the same in accordance with law, as expeditiously as possible, preferably within a period of two months from today. While passing the order verifying the compromise, the concerned court shall also record the statement of the applicants and the opposite party no. 2 as to whether all the terms and conditions mentioned in the original compromise deed, so filed, have been fulfilled or not.

The court in that scenario will allow the applicant and the opposite party no. 2 to obtain certified copy of the report as well as compromise and it will be open to the applicants to approach this Court again for quashing of the proceedings.

For a period of two months, no coercive action shall be taken against the applicants in the aforesaid case.

With the aforesaid directions, this application is finally disposed of."

7. In pursuance of the order dated 8.8.2023 passed by this Court, Special Judge (SC/ST) Act, Varanasi has passed the compromise verification order dated 29.8.2023. Certified copy of the order dated 29.8.2023 has been filed as annexure No. 8 to this application. As per compromise verification order dated 29.8.2023, the first informant namely Manju Devi has passed away and in her place her husband Hausala Prasad (injured) has been permitted to proceed with the matter. In the compromise application (paper No. 13Ka), the accused and Opposite Party No. 3 (husband of the first

informant) have put their signatures. They appeared before the court below and have been identified by their respective counsel. In short counter affidavit, Opposite Party No. 2 has admitted the factum of compromise took place between the parties. Photo stat copy of the death certificate of Manju Devi (first informant) along with affidavit of Hausala Prasad (husband of the first informant) has been annexed as annexure No. 1 to the short counter affidavit.

8. Learned counsel for the applicants submits that, in the above eventuality of the compromise took place between the parties and the compromise verification order dated 29.8.2023, the instant application may be allowed and the criminal proceeding initiated against the present applicants may be quashed. It is further submitted that both the parties have buried the hatchet and 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.

9. 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 misdemeanour. The consequences of the act complained of upon the financial or economic system will weigh in the balance."

10. Learned AGA 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.

11. 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 wants to prosecute the present case against the applicant any more as no dispute remains between the parties.

12. Having considered the compromise verification order dated 29.8.2023 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.

13. In view of the aforesaid pronouncements of the Hon'ble Apex Court and in the light of the compromise arrived at between the parties, which has been duly verified by the concerned court below, the present application under Section 482 Cr.P.C. is hereby allowed. The entire criminal proceeding of the aforementioned case is hereby quashed.

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

Order Date :- 30.11.2023

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