

Court No. - 92

Case :- APPLICATION U/S 482 No. - 42040 of 2023

Applicant :- Bahadur Shah Jafar @ Belal And Another

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

Counsel for Applicant :- Rohit Nandan Shukla, Saurabh Tripathi

Counsel for Opposite Party :- G.A.

Hon'ble Anish Kumar Gupta, J.

1. Vakalatnama filed by Sri Jitendra Kumar Yadav, on behalf of the opposite party no.2, is taken on record.

2. Heard Sri R.K.Shukla, Advocate holding of Sri Rohit Nandan Shukla, learned counsel for the applicants, Sri Jitendra Kumar Yadav, learned counsel for the opposite party no.2 and Sri Sandeep Choudhary, learned A.G.A. for the State.

3. The instant application under Section 482 Cr.P.C. has been filed seeking quashing of the charge-sheet dated 18.09.2023 in Sessions Trial No. 20 of 2019 (State of U.P. vs. Bahadur Shah Jafar @ Belal and Anr.), arising out of Case Crime No. 101 of 2018 u/S 376/511, 354B, 506 I.P.C., and under Section 7/8 of POCSO Act, P.S.- Kapsethi, District- Varanasi.

4. Learned counsel for the applicant submits that this is the second application u/S 482 Cr.P.C., seeking quashing of the entire proceedings of the Special Sessions Trial No. 20 of 2019 arising out Case Crime No. 101 of 2018 u/S 376/511, 354B, 506 I.P.C., and under Section 7/8 of POCSO Act, P.S.- Kapsethi, District-Varanasi, pending in the court of Special Judge POCSO I, Varanasi. Learned counsel for the applicant further submits that the earlier petition being Application u/S 482 Cr.P.C. No. 30688 of 2023 (Bahadur Shah Jafar @ Belal and Anr. vs. State of U.P. and Anr.) was disposed of by this Court on 22.08.2023, by directing the parties to appear before the trial court and submit the compromise deed, which was to be verified by the trial court. In compliance of the said order dated 22.08.2023, the parties have submitted the compromise dated 08.09.2023 before the trial court concerned, which was duly verified on 18.09.2023 by the trial court. Since, the the instant case involved the offences u/S 354B and Section 7/8 of POCSO Act, which were not compoundable, therefore, the trial court after verifying the compromise deed,

refused to accept compromise for quashing the prosecution. It is further submitted by learned counsel for the applicants as well as opposite party no.2, that no charge-sheet for the offence u/S 376/511 I.P.C. was filed against the appellants.

5. Learned counsel for the opposite party no.2 do not dispute the factum of compromise between the parties which has been duly verified by the trial court.

6. In view thereof, learned A.G.A. also do not dispute the facts of the compromise between the parties.

7. Therefore, learned counsel for the applicants and the opposite party no.2 jointly pray for quashing of the proceedings in terms of the compromise between the parties.

8. Having heard the submissions made by the learned counsels for the parties, this Court has carefully gone through the record of the case and it appears there was a property dispute between the parties and both the parties have lodged criminal prosecution case against each other and in view of the compromise between the parties, the lodged on behalf of the applicants, the opposite party no.2 and one Sanaullah, son of the opposite party no.2, have already been discharged from the criminal prosecution as in view of the compromise between the parties the witnesses have turned hostile against the accused person therein.

9. Therefore, in view of the compromise between the parties no fruitful purpose will be served by continuing the instant criminal prosecution against the applicants herein as well. They do not support the prosecution and this will ultimately result in the acquittal of the applicants and since the compromise has taken place between the parties, if the proceedings are quashed between the parties then the peace will prevail over in the society. Therefore, in the considered opinion of this Court, in the light of the judgements of Apex Court in ***Gian Singh vs. State of Punjab and Another : (2012) 10 SCC 303***, ***B.S.Joshi and Other vs. State of Haryana and Another : (2003)4 SCC 675*** & ***Narinder Singh & Ors. vs. State of Punjab : (2014) 6 SCC 466***, it is appropriate to quash the instant proceedings against the applicants herein.

10. In view thereof, the instant application is ***allowed*** in terms of the compromise between the parties and proceedings of Sessions Trial No. 20 of 2019 (State of U.P. vs. Bahadur Shah Jafar @ Belal and Anr.), arising out of Case Crime No. 101 of 2018 u/S 376/511, 354B, 506 I.P.C., and under Section 7/8 of POCSO Act, P.S.-

Kapsethi, District- Varanasi, are hereby **quashed**.

Order Date :- 23.11.2023

Shubham Arya