

Court No. - 93

Case :- APPLICATION U/S 482 No. - 42507 of 2023

Applicant :- Angrez Singh And Another

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

Counsel for Applicant :- Rajiv Sharma, Abhishek Sharma

Counsel for Opposite Party :- G.A.

Hon'ble Manoj Bajaj, J.

1. Applicants Angrez Singh and his co-accused have jointly filed this petition under Section 482 Code of Criminal Procedure for quashing of the criminal proceedings arising out of the Case Crime No. 041 of 2022, under Sections 420, 406, 307, 504, 506 and 427 IPC registered at Police Station Najibabad, District Bijnor which is subject matter of the Sessions Trial No. 312 of 2023; titled State vs. Angrez Singh and others, pending before the Additional Sessions Judge/F.T.C., Bijnor, on the basis of the compromise dated 05.10.2023 (Annexure No. 4).

2. The above noted case was registered on the basis of the complaint by Jasvinder Singh, who alleged that Angrez Singh is his father-in-law and the complainant is engaged in his business abroad, so he keeps on visiting abroad in connection with his business. Angrez Singh asked the complainant that he is looking to purchase some land for agricultural purposes, and borrowed some money for a period of two years on the promise to return it, with interest and also assured that in the purchased land, complainant's name shall also be also included. The complainant believed his father-in-law and paid a sum of Rs. 30,00,000/-, Rs. 29,00,000/-, Rs. 25,50,842/-, and Rs. 1,00,000/- in between 9.5.2013 to 7.5.2015 through transfer in his account bearing Account No. "911010009900796". Upon receiving this amount of Rs. 85,50,842/-, neither the name of the complainant was added in the purchased land nor the amount was returned as per promise. When the complainant demanded back his money, Angrez Singh kept on dilly dallying the same, who lastly refused

to return the money and threatened to get him murdered. According to the complainant, some of the land was independently purchased by him which is in his possession, but his father-in-law is keeping an evil eye on the said land, and the complainant has filed a Civil Suit No. 11/22 (Jasvinder Singh vs. Kanwaljeet Kaur and another), wherein injunction has been granted in his favour. On 9.1.2022, when complainant was going back home from Nazibabad then two unknown persons threw stone on his vehicle and when the complainant after stopping the vehicle came out of it, then two persons came there and one of those namely Mastan Singh alias Mastu pulled out a weapon and fired at him. The complainant had a narrow escape, who ran away from the spot. On these broad allegations, the above FIR was lodged.

3. After registration of the FIR, the final report dated 30.4.2022 was filed against accused Angrez Singh and Mastan Singh alias Mastu for alleged commission of offences punishable under Sections 420, 406, 307, 504, 506, 427 IPC.

4. Learned counsel submits that during the pendency of the case, with the intervention of the respectable persons of the village, the parties have agreed to resolve the dispute and in this regard, a compromise arrived at on 05.10.2023, is appended with this application as Annexure No. 4. He submits that since the parties have settled the dispute, the continuation of the trial will be a futile exercise, therefore, the impugned criminal proceedings be quashed on the basis of the compromise.

5. During the course of hearing, when the learned counsel was confronted with the maintainability of the petition seeking quashing of the criminal case relating to the commission of offence punishable under Section 307 IPC, on the basis of compromise, he submits that since in this occurrence no injury

is suffered by the complainant, therefore, strictly it would not be a case under Section 307 IPC.

6. After hearing the learned counsel for the parties and considering his submissions, this Court finds that the solitary ground of compromise set up in this petition for quashing of the criminal proceedings is not worth acceptance.

7. The Hon'ble Supreme Court in ***the State of Madhya Pradesh vs. Laxmi Narayan and others*** reported in **2019 AIR (Supreme Court) 1296** laid down the principles for quashing of the criminal proceedings on the strength of compromise, in non-compoundable offences by exercising inherent powers under Section 482 Cr.P.C. The relevant portion of the judgment is extracted below:-

"13. Considering the law on the point and the other decisions of this Court on the point, referred to hereinabove, it is observed and held as under:

i) that the power conferred under Section 482 of the Code to quash the criminal proceedings for the non-compoundable offences under Section 320 of the Code can be exercised having overwhelmingly and predominantly the civil character, particularly those arising out of commercial transactions or arising out of matrimonial relationship or family disputes and when the parties have resolved the entire dispute amongst themselves;

ii) such power is not to be exercised in those prosecutions which involved heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. Such offences are not private in nature and have a serious impact on society;

iii) similarly, such power is not to be exercised for the offences under the special statutes like Prevention of Corruption Act or the offences committed by public servants while working in that capacity are not to be

quashed merely on the basis of compromise between the victim and the offender;

iv) offences under Section 307 IPC and the Arms Act etc. would fall in the category of heinous and serious offences and therefore are to be treated as crime against the society and not against the individual alone, and therefore, the criminal proceedings for the offence under Section 307 IPC and/or the Arms Act etc. which have a serious impact on the society cannot be quashed in exercise of powers under Section 482 of the Code, on the ground that the parties have resolved their entire dispute amongst themselves. However, the High Court would not rest its decision merely because there is a mention of Section 307 IPC in the FIR or the charge is framed under this provision. It would be open to the High Court to examine as to whether incorporation of Section 307 IPC is there for the sake of it or the prosecution has collected sufficient evidence, which if proved, would lead to framing the charge under Section 307 IPC. For this purpose, it would be open to the High Court to go by the nature of injury sustained, whether such injury is inflicted on the vital/delegate parts of the body, nature of weapons used etc. However, such an exercise by the High Court would be permissible only after the evidence is collected after investigation and the charge sheet is filed/charge is framed and/or during the trial. Such exercise is not permissible when the matter is still under investigation. Therefore, the ultimate conclusion in paragraphs 29.6 and 29.7 of the decision of this Court in the case of Narinder Singh (supra) should be read harmoniously and to be read as a whole and in the circumstances stated hereinabove;

v) while exercising the power under Section 482 of the Code to quash the criminal proceedings in respect of non-compoundable offences, which are private in nature and do not have a serious impact on society, on the ground that there is a settlement/compromise between the victim and the offender, the High Court is required to consider the antecedents of the accused; the conduct of the accused, namely, whether the accused was absconding

and why he was absconding, how he had managed with the complainant to enter into a compromise etc.

14. Insofar as the present case is concerned, the High Court has quashed the criminal proceedings for the offences under Sections 307 and 34 IPC mechanically and even when the investigation was under progress. Somehow, the accused managed to enter into a compromise with the complainant and sought quashing of the FIR on the basis of a settlement. The allegations are serious in nature. He used the fire arm also in commission of the offence. Therefore, the gravity of the offence and the conduct of the accused is not at all considered by the High Court and solely on the basis of a settlement between the accused and the complainant, the High Court has mechanically quashed the FIR, in exercise of power under Section 482 of the Code, which is not sustainable in the eyes of law. The High Court has also failed to note the antecedents of the accused."

8. Thus, considering the seriousness of the offence and in light of the decision of the Hon'ble Supreme Court in the above mentioned case, this Court is not inclined to accept the sole ground of compromise raised by the applicants in this petition for quashing of the criminal proceedings.

9. Resultantly, without meaning any expression of opinion on the merits of the case, the application under Section 482 Cr.P.C. is dismissed.

Order Date :- 30.11.2023
Brijesh