

Court No. - 93

Case :- APPLICATION U/S 482 No. - 43891 of 2023

Applicant :- Mohd. Musharraf Siddiqui

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

Counsel for Applicant :- Mohd. Ayub

Counsel for Opposite Party :- G.A.

Hon'ble Manoj Bajaj,J.

1. Through this petition, filed under Section 482 Cr.P.C., the petitioner has prayed for quashing of Charge Sheet No. 166 of 2019 dated 20.8.2019 (Annexure No.2), cognizance order dated 19.11.2019 passed by Additional Chief Judicial Magistrate, court no. 17, Allahabad in Case No. 1487 of 2019, titled State vs. Mohd. Musharraf and others), arising out of Case Crime No. 197 of 2018, under Sections 498A, 323, 504, 506 I.P.C. and section 3/4 Dowry Prohibition Act, P.S. Mahila Thana, district Allahabad and the proceedings arising therefrom, on the basis of the compromise dated 17.11.2020 (Annexure No.4) entered into between the parties.

2. Learned counsel for applicants submits that on the basis of the written compromise between the parties, previously the applicant no.1 had filed a petition bearing Application U/S 482 No. 30478 of 2023, seeking quashing of the above mentioned case and the same was disposed of vide order dated 6.9.2023 passed by co-ordinate Bench of this Court, thereby, relegating the parties before the trial court for the purpose of verification of the compromise. He submits that at that stage, the liberty was granted to the applicants to file a fresh petition on the same cause of action.

3. Learned counsel for applicants has drawn the attention of the Court to the verification report/ order dated 29.9.2023 sent by Civil Judge (J.D.)/ FTC, Court No. 21, Prayagraj and submitted that as per the statement made by the parties before the court, they have voluntarily entered into a compromise and the court is satisfied that the said settlement is without any fear, pressure, threat or coercion and is based on their free will.

4. During the course of hearing, learned counsel for applicant states that the applicant has been declared as proclaimed offender. Learned counsel for applicant further submits that the parties have

amicably resolved their differences with the intervention of the elderly people of society, therefore, the continuation of the criminal proceedings in the subject F.I.R. would not serve any useful purpose, and in case the compromise between the parties is not accepted it would take away an opportunity from them to rebuild cordial relations.

5. Learned State counsel does not dispute the factum of compromise between the parties.

6. I have heard learned counsel for the parties and perused the case file.

7. In ***Gian Singh Vs. State of Punjab and another, 2012 (4) RCR (Criminal) 543***, the Hon'ble Supreme Court has also discussed the powers of High Court under Section 482 Cr.P.C. and the relevant portion reads as under :-

"The position that emerges from the above discussion can be summarised thus: the power of the High Court in quashing a criminal proceeding or FIR or complaint in exercise of its inherent jurisdiction is distinct and different from the power given to a criminal court for compounding the offences under Section 320 of the Code. Inherent power is of wide plenitude with no statutory limitation but it has to be exercised in accord with the guideline engrafted in such power viz; (i) to secure the ends of justice or (ii) to prevent abuse of the process of any Court. In what cases power to quash the criminal proceeding or complaint or F.I.R may be exercised where the offender and victim have settled their dispute would depend on the facts and circumstances of each case and no category can be prescribed. However, before exercise of such power, the High Court must have due regard to the nature and gravity of the crime. Heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. cannot be fittingly quashed even though the victim or victim's family and the offender have settled the dispute. Such offences are not private in nature and have serious impact on society. Similarly, any compromise between the victim and offender in relation to the offences under special statutes like Prevention of Corruption Act or the offences committed by public servants while working in that capacity etc; cannot provide for any basis for quashing criminal proceedings involving such offences. But the criminal cases having overwhelmingly and predominatingly civil flavour stand on different footing for the purposes of quashing, particularly the offences arising from commercial, financial, mercantile, civil, partnership or such like transactions or the offences arising out of matrimony relating to dowry, etc. or the family disputes where the wrong is basically private or personal in nature and the parties have resolved their entire dispute. In this category of cases, High Court may quash criminal proceedings if in its view, because of the compromise between the offender and victim, the possibility of conviction is remote and bleak and continuation of criminal case would put accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal case despite full and complete settlement and compromise with the victim. In other words, the High Court

must consider whether it would be unfair or contrary to the interest of justice to continue with the criminal proceeding or continuation of the criminal proceeding would tantamount to abuse of process of law despite settlement and compromise between the victim and wrongdoer and whether to secure the ends of justice, it is appropriate that criminal case is put to an end and if the answer to the above question(s) is in affirmative, the High Court shall be well within its jurisdiction to quash the criminal proceeding."

8. Upon analysing the above background, nature of the offences as well as the common stand of the parties relating to compromise whereby they have buried the hatchet, this Court finds that the parties have settled the dispute and decided to live in peace, therefore, it is a fit case for exercising the inherent powers under Section 482 Cr.P.C. to bring an end to the above prosecution, as no meaningful purpose would be served, if the criminal proceedings are allowed to continue.

9. Resultantly, present petition succeeds and Charge Sheet No. 166 of 2019 dated 20.8.2019 (Annexure No.2), cognizance order dated 19.11.2019 passed by Additional Chief Judicial Magistrate, court no. 17, Allahabad in Case No. 1487 of 2019, titled State vs. Mohd. Musharraf and others), arising out of Case Crime No. 197 of 2018, under Sections 498A, 323, 504, 506 I.P.C. and section 3/4 Dowry Prohibition Act, P.S. Mahila Thana, district-Allahabad and the proceedings arising therefrom are ordered to be quashed.

10. The application is allowed.

Order Date :- 1.12.2023

Faridul