

Court No. - 15

Case :- APPLICATION U/S 482 No. - 1289 of 2017

Applicant :- Durgacharan Das Gupta

Opposite Party :- State Of U.P. And Anr.

Counsel for Applicant :- Ratnesh Kant Agnihotri, Arvind Kumar, Gaurav Saxena, Hari Om Pandey, Jeya Rai, Lalla Ram Chauhan, Mahendra Pratap, Monu Singh Yadav, Neeraj Kumar, Neeraj Kumar Saxena, Ranjana Agnihotri, Rishi Saxena, Shailendra Srivastava

Counsel for Opposite Party :- Govt. Advocate, Lalit Kishore Pandey

with

Case :- APPLICATION U/S 482 No. - 1288 of 2017

Applicant :- Gyanwati And Ors.

Opposite Party :- State Of U.P. And Anr.

Counsel for Applicant :- Ratnesh Kant Agnihotri, Arvind Kumar, Gaurav Saxena, Hari Om Pandey, Jeya Rai, Lalit Kishore Pandey, Lalla Ram Chauhan, Monu Singh Yadav, Neeraj Kumar Saxena, Promod Singh, Rishi Saxena

Counsel for Opposite Party :- Govt. Advocate, Pramod Singh Gahmari, V.K. Srivastava

Hon'ble Shamim Ahmed, J.

1. List has been revised.

2. The applicant, namely-Durgacharan Das Gupta has filed application under Section 482 Cr.P.C. No.1289 of 2017 with a prayer to quash the impugned proceedings of Criminal Case no.418 of 2015, State Vs. Durgacharan, arising out of Case Crime no.1105 of 2015, Under Sections-498-A, 323, 504, 506 I.P.C. and 3/4 Dowry Prohibition Act, Police Station- Gomti Nagar, Lucknow, pending in the Court of Learned Chief Judicial Magistrate, Lucknow; as well as to stay the proceedings of Criminal Case 418 of 2015, State Vs. Durgacharan, arising out of Case Crime no. 1105 of 2015, Under Sections 498-A, 323, 504, 506 I.P.C. and 3/4 Dowry Prohibition Act, Police Station Gomti Nagar, pending in the Court of Learned Chief Judicial Magistrate, Lucknow.

3. The applicants, namely-Gyanwati, Vijay Kumar and Durgacharan Das Gupta have filed application under Section 482 Cr.P.C. No.1288 of 2017 with a prayer to quash the impugned summoning order dated 22.04.2016, complaint dt.06.05.2015 and proceedings of complaint case No.2482 of 2015 (Saroj Singh vs. Durgacharan and two others) under Section 498A, 323 and 504 I.P.C., Police Station-Gomti Nagar,

District-Lucknow pending in the court of Chief Judicial Magistrate, Lucknow.

4. Heard Durgacharan Das Gupta, Applicant (In person), Shri Lalit Kishore Pandey, learned Counsel for opposite party No.2, Shri Ashok Kumar Srivastava, learned A.G.A. for the State and perused the material placed on record.

5. In compliance of the order dated 07.11.2023 passed by this Court, the applicant, namely-Durgacharan Das Gupta (In person) as well as Ms. Saroj Singh are present before this Court. Opposite party No.2 is identified by her counsel.

6. In compliance of the orders dated 22.02.2023 and 07.11.2023 passed by this Court, Durgacharan Das Gupta (In person) has brought bank draft of Rs.3,85,000/- (Rs. Three Lakhs Eighty Five Thousand) and Rs.15,000/- (Rs. Fifteen Thousand) in cash to be paid to opposite party No.2, namely-Saroj Singh. He has handed over three original drafts bearing Draft No.003006 amounting Rs.2,00,000/-, Draft No.003007 amounting Rs.1,00,000/- both dated 15.12.2023 and Draft No.003008 amounting Rs.85,000/- dated 16.12.2023 all drafts drawn from the Central Bank of India, Reoti, District-Balia. The photostat copies of the same bearing receiving signature of the opposite party No.2, namely-Saroj Singh are taken on record. Remaining amount of Rs.15,000/- is handed over in cash to the opposite party No.2, namely-Ms. Saroj Singh before this Court.

7. In compliance of the order dated 23.02.2017 passed in Application U/S 482 No.1288 of 2017, the amount of Rs.15,000/- which has been deposited by the applicant, namely-Durgacharan Das Gupta before the Mediation and Conciliation Centre of this Court at Lucknow may also be paid to opposite party No.2, namely-Ms. Saroj Singh, within 20 days' from today.

8. In view of the above, Ms. Saroj Singh, opposite party No.2 submits that now she has received the entire amount from Durgacharan Das Gupta and no amount is due against him, thus, she is satisfied with the above amount.

9. Durgacharan Das Gupta submits that in view of oral settlement arrived at between the parties before this Court, now no dispute remains between the parties and nothing remains to be adjudicated by this Court in the aforesaid proceedings, therefore, no useful purpose would be served if the proceedings of the aforesaid case go on further.

10. Shri Lalit Kishore Pandey, learned counsel for the opposite

party No. 2 also supported the arguments as advanced by the applicant, namely-Durgacharan Das Gupta and submits that as the parties have entered into a settlement no useful purpose would be served keeping the matter pending, and his client has no objection if the present proceedings are quashed.

11. Learned A.G.A. also made an agreement with the submissions of learned Counsel for the parties and submits that since parties have entered into settlement, therefore, no useful purpose would be served if the proceedings of the aforesaid case go on further.

12. The opposite party No.2, Ms. Saroj Singh submits that now she is not interested to pursue this matter any further and also submits that the proceedings of this case may be quashed.

13. The opposite party No.2 also states that she will also not pursue the other cases initiated against the applicant, namely-Durgacharan Das Gupta and his family members, the details of which is quoted here-in-below, which she has instituted against the applicant and his family members, and she assured to this Court that she will withdraw all the cases from the respective courts, where they are pending within 30 days from today, the details of which are as follows:

"1. Criminal Case No.418 of 2015 (State vs. Durga Charan Das Gupta) before Additional Chief Judicial Magistrate, Room No.29, Lucknow arising out of Case Crime No.1105/2015 under Sections 498A, 323, 504 and 506 I.P.C. and Section 3/4 Dowry Prohibition Act, Police Station-Gomti Nagar, District-Lucknow.

2. Criminal Case No.2482 of 2015 (Saroj Singh vs. Durga Charan Das Gupta and Others) before Additional Chief Judicial Magistrate, Room No.29, Lucknow under Sections 498A, 323, 504 I.P.C., Police Station-Gomti Nagar, District-Lucknow.

3. Original Case No.2729 of 2017 (Saroj Singh vs. Durga Charan Das Gupta and Others) before Additional Principal Judge, Room No.2, Family Court, Lucknow under Section 13A of Hindu Marriage Act.

4. Criminal Case No.816 of 2017 (Saroj Singh vs. Durga Charan Das Gupta and Others) before Additional Principal Judge, Room No.2, Family Court, Lucknow under Section 125 Cr.P.C., Police Station-Gomti Nagar, District-Lucknow.

5. Case No.448/2015 (Saroj Singh vs. Durga Charan Das Gupta and Others) before Additional Chief Judicial Magistrate, Room No.29, Lucknow under Section 12 Domestic Violence Act, Police Station-Gomti Nagar, District-Lucknow.

6. Case No.648/2016 arising out of Case Crime No.35 of 2016 under Section 364 I.P.C., Police Station-Gautampalli, District-

Lucknow."

14. Durgacharan Das Gupta, the applicant submits that he will also withdraw all the cases, which were filed by the applicant and his family against the opposite party No.2-Ms. Saroj Singh and her family members within 30 days from today, the details of which are quoted here-in-below:

"1. Misc. Case No.5956 of 2022 (Durga Charan Das Gupta vs. Saroj Singh and Others) before Additional Chief Judicial Magistrate, Room No.29, Lucknow under Section 340 I.P.C. and Section 25, 28, 29, 51, 191, 192, 196, 199, 209 and 219 of I.P.C.

2. Misc. Case No.3122 of 2022 (Durga Charan Das Gupta vs. Saroj Singh and Others) before Additional Chief Judicial Magistrate, Lucknow under Section 340, 195 Cr.P.C. and Section 191, 192, 193, 199, 211 and 209 I.P.C.

3. Misc. Case No.1613 of 2022 (Durga Charan Das Gupta vs. Saroj Singh and Others) before Additional Principal Judge Room No.2, Family Court, Lucknow under 340 and 195 Cr.P.C. and Section 191, 193, 199 and 209 I.P.C.

4. Misc. Case No.207 of 2022 (Durga Charan Das Gupta vs. Saroj Singh and Others) before Additional Principal Judge, Room No.2, Family Court, Lucknow under Section 127 Cr.P.C.

5.(Durga Charan Das Gupta vs. Saroj Singh and Others) before Additional Chief Judicial Magistrate, Room No.29, Lucknow under Section 340, 195 Cr.P.C. and Section 191, 193, 199, 209 and 211 of I.P.C.

6. Misc. Case No.1649 of 2021 (Durga Charan Das Gupta vs. Saroj Singh and Others) before Additional Chief Judicial Magistrate, Room No.29, Lucknow under Section 340 Cr.P.C. and Section 191, 193, 195, 196, 209 and 463 of I.P.C.

7. Misc. Case No.103 of 2019 (Durga Charan Das Gupta vs. Saroj Singh and Others) before Additional Chief Judicial Magistrate, Room No.2, Lucknow under Section 9 of Hindu Marriage Act, 1955 and Section 191, 193, 199, 211 and 209 of I.P.C.

8. निगरानी No.1105 of 2019 (Durga Charan Das Gupta vs. Saroj Singh and Others) before this Court under Criminal Revision."

15. Learned counsel for the parties have drawn attention of this Court and placed reliance on the following judgments of Hon'ble Apex Court in support of their case.

(i) B.S. Joshi Vs. State of Haryana & Others 2003 (4) ACC 675.

(ii) Gian Singh Vs. State of Punjab 2012 (10) SCC 303.

(iii) Dimpey Gujral And Others Vs. Union Territory Through Administrator 2013 (11) SCC 697.

(iv) Narendra Singh And Others Vs. State of Punjab And Others 2014 (6) SCC 466.

(v) Yogendra Yadav And Others Vs. State of Jharkhand 2014 (9) SCC 653.

16. Summarizing the ratio of all the above cases the latest judgment pronounced by Hon'ble Apex Court in the case of **Parbatbhai Aahir @ Parbatbhai Bhimsinhbhai Karmur & Ors. Vs. State of Gujarat & Anr,; reported in (2017) 9 SCC 641** and in paragraph no.16, the Hon'ble Apex Court has summarized the broad principles with regard to exercise of powers under Section 482 Cr.P.C. in the case of compromise/settlement between the parties which emerges from precedent of the subjects as follows:-

i. "Section 482 preserves the inherent powers 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 recognizes 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 the 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 appropriately

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 in so far as the exercise of the inherent power to quash is concerned;

viii. Criminal cases involving offences which arises 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."

17. The Apex Court has also laid down the guidelines where the criminal proceedings could be interfered and quashed in exercise of its power by the High Court in the following cases:-

(i) R.P. Kapoor Vs. State of Punjab, AIR 1960 S.C. 866, (ii) State of Haryana Vs. Bhajanlal, 1992 SCC (Cri.)426, (iii) State of Bihar Vs. P.P. Sharma, 1992 SCC (Cri.)192 and (iv) Zandu Pharmaceutical Works Ltd. Vs. Mohd. Saraful Haq and another, (Para-10) 2005 SCC (Cri.) 283.

18. From the aforesaid decisions the Apex Court has settled the legal position for quashing of the proceedings at the initial stage. The test to be applied by the court is to whether uncontroverted allegation as made prima facie establishes the offence and the chances of ultimate conviction is bleak and no useful purpose is likely to be served by allowing criminal proceedings to be continue. In **S.W. Palankattkar & others Vs. State of Bihar, 2002 (44) ACC 168**, it has been held by the Hon'ble Apex Court that quashing of the criminal proceedings is an exception than a rule. The inherent powers of the High Court under Section 482 Cr.P.C itself envisages three circumstances under which the inherent jurisdiction may be exercised:-(i) to give effect an order under the Code, (ii) to prevent abuse of the process of the court ; (iii) to otherwise

secure the ends of justice. The power of High Court is very wide but should be exercised very cautiously to do real and substantial justice for which the court alone exists.

19. With the assistance of the aforesaid guidelines, keeping in view the nature and gravity and the severity of the offence which are more particularly is private dispute and differences it is deem proper and meet to the ends of justice. The proceeding of the aforementioned case be quashed.

20. Keeping in view the law laid down by the Hon'ble Apex Court in the above referred judgment and in view of the settlement arrived at between the parties before this Court and also keeping in view the statements made by Durgacharan Das Gupta (In person) applicant, learned counsel for the opposite party No.2 as well as opposite party No.2, namely-Ms. Saroj Singh and learned A.G.A. for the State and the observations made above, both the applications stand **allowed**.

21. The entire proceedings of Criminal Case no.418 of 2015, State Vs. Durgacharan, arising out of Case Crime no.1105 of 2015, Under Sections-498-A, 323, 504, 506 I.P.C. and 3/4 Dowry Prohibition Act, Police Station- Gomti Nagar, Lucknow, pending in the Court of Learned Chief Judicial Magistrate, Lucknow and the entire proceedings of complaint Case No.2482 of 2015 (Saroj Singh vs. Durgacharan and two others) under Section 498A, 323 and 504 I.P.C., Police Station-Gomti Nagar, District-Lucknow pending in the court of Chief Judicial Magistrate, Lucknow, is also hereby **quashed**.

22. Both the parties assured this Court that they will not file any further litigation against each other and their family members in respect of matrimonial dispute and they will live independently in future.

23. The party shall file computer generated copy of such order downloaded from the official website of High Court Allahabad or certified copy issued from the Registry of the High Court, Allahabad.

24. The concerned Court/Authority/Official shall verify the authenticity of such computerized copy of the order from the official website of High Court Allahabad and shall make a declaration of such verification in writing.

Order Date :- 20.12.2023

Piyush/-