

Court No. - 28

Case :- APPLICATION U/S 482 No. - 10073 of 2023

Applicant :- Surendra Babu And Another

Opposite Party :- State Of U.P. Thru. Prin. Secy. Home, Lko.
And Another

Counsel for Applicant :- Ayush Srivastava

Counsel for Opposite Party :- G.A.,Rajat Pratap Singh

Hon'ble Shree Prakash Singh,J.

Sri Rajat Pratap Singh, advocate, has put in appearance by way of filing vakalatnama on behalf of opposite party no. 2 and the same is taken on record.

Heard Sri Ayush Srivastava, learned counsel for the applicants, Sri Rajat Pratap Singh, learned counsel for opposite party no. 2, Sri Ram Raj Singh, learned AGA for the State and perused the record.

Instant application has been filed with prayer to quash the impugned Charge Sheet No.329/2019, dated 10.12.2019 passed in Session Trial No.1410/2021, Case Crime No.112/2019, Under Section -307/323/504/506 IPC, Police Station-Pachdevra, District-Hardoi "State versus Surendra Babu and others".

Learned counsel appearing for the applicants submits that an FIR was lodged by opposite party no. 2 on 12.04.2019 against the applicants and an FIR was also lodged by the applicants against opposite party no. 2 and other accused persons. He added that in spur of the moment, the incident had taken place and there was no criminal intent to commit any offence. He added that the nature of injuries are such that those are not on the vital part of the injured therefore, in such matter it cannot be

said that there was any criminal intent to commit murder.

Adding his arguments, he submits that the accused persons and the informant are of the same locality and are relatives and therefore, they sat together and have amicably settled their dispute and the terms and conditions have been reduced in writing, in form of compromise deed dated 06.10.2023. He added that there is no further dispute in between the parties and trial in this matter would be futile exercise and therefore, the criminal proceedings against the applicants may be quashed.

In support of his contentions, he has placed reliance on the judgment reported in the case of **State of Madhya Pradesh Versus Laxmi Narayan and Others, reported in (2019) 5 Supreme Court Cases, 688**, and submits that Hon'ble Apex Court has formulated the guidelines so far as the compromise under sections 307 readwith section 34 I.P.C. is concerned. Para no. 15.4 of the Judgment in the case of Laxmi Narayan(Supra) is extracted hereinunder:-

"15.4 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/delicate 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 paras 29.6 and 29.7 of the decision of this Court in Narinder Singh should be read harmoniously

and to be read as a whole and in the circumstances stated hereinabove."

Referring the aforesaid, he submits that the case of the present applicants is squarely covered with the ratio of the judgment abovesaid.

On the other hand, counsel for opposite party no. 2 supported the version of counsel for the applicants and submits that the parties have settled their dispute and now there is no grievance against each other and therefore, the criminal proceedings against the applicants may be dropped.

Learned counsel for the State has opposed the contentions vehemently on merits, but he has no objection if the parties have settled their dispute amicably.

Having heard learned counsel for the parties and after perusal of material placed on record, it transpires that the first information report was lodged against the applicants by the opposite party no. 2 making allegations therein, that the applicants with a view to commit murder, opened the fire over the injured/opposite party no. 2 and he sustain injuries. From perusal of the injury report, it transpires that the injuries are not on the vital part of the injured and the parties have settled their dispute by way of settlement agreement dated 06.10.2023 and they have put all their dispute to rest.

Accordingly, this application is **disposed of** with a direction to the court concerned that if any such compromise is filed before it, it shall issue notices to all the signatories to the compromise requiring their personal presence and, thereafter, proceed to verify the compromise. If the aforesaid compromise is verified, a report to that effect shall be prepared by the court and the compromise will be made part of the record.

The court in that scenario will allow the parties to obtain certified copy of the report as well as compromise if any, and it will be open to the applicants to approach this Court again for quashing of the proceedings.

For a period of two months, the proceedings initiated in pursuance of the Charge Sheet No.329/2019, dated 10.12.2019 passed in Session Trial No.1410 of 2021, Case Crime No.112 of 2019, Under Section -307/323/504/506 IPC, Police Station-Pachdevra, District-Hardoi "State versus Surendra Babu and others" shall remain stayed so far as applicants are concerned.

Order Date :- 13.10.2023

Mayank