

Court No. - 10

Case :- CRIMINAL MISC. WRIT PETITION No. - 7983 of 2023

Petitioner :- Ran Vijay Singh And Others

Respondent :- State Of U.P. Thru. Prin. Secy. Home Lko. And Others

Counsel for Petitioner :- Mayank Pandey, Abhay Agarwal, Ashish Kumar Pandey

Counsel for Respondent :- G.A., Rachti Gupta, Sushil Yadav

Hon'ble Mrs. Sangeeta Chandra, J.

Hon'ble Mrs. Jyotsna Sharma, J.

1. Learned counsel for the petitioner has submitted along with petition a demand draft of Rs. 19,32,712/- made out in favour of opposite party no. 4 which has been produced before this Court. The said demand draft is given to the opposite party no. 4- Sri Vipin Gupta.

2. The petition has been filed with the following main prayer:

(i) Issue a writ, order, or direction in the nature of Certiorari by quashing the impugned First Information Report dated 25.08.2023 vide case crime no. 510 of 2023, Under Section 409, 420, Indian Penal Code, Police Station- Gomti Nagar, District- Lucknow contained in Annexure No.1 to the writ petition.

(ii) Issue a writ, order, or direction in the nature of Mandamus commanding the opposite parties to not arrest the petitioners in connection with the impugned dated 25.08.2023 vide case crime no - 510 of 2023, Under Section 409, 420, Indian Penal Code, Police Station- Gomti Nagar, District- Lucknow contained in Annexure No.1 to the writ petition."

3. Respondent no.4- Sri Vipin Gupta has stated that all the liabilities that was due on the petitioners, has been discharged while handing over the demand draft to him. He has also stated before this Court that he has no objection if the writ petition is disposed of accordingly.

4. Learned counsel for the opposite party No.4 has not disputed receiving such amount. Therefore, if the impugned First Information Report be allowed to proceed further then in that case no fruitful purpose will be served, hence, it is necessary in

the interest of justice that the impugned F.I.R. be quashed.

5. Learned A.G.A. has also not disputed the argument advanced by learned counsel for the parties.

6. Since both the parties to the dispute have arrived at a compromise, in such a situation, the Court has inherent jurisdiction to pass a suitable order as may be necessary to prevent the abuse of process of law to secure the ends of justice.

7. In the case of **B.S. Joshi and others vs. State of Haryana and others**, the Hon'ble Supreme Court by discussing earlier decision has discussed the principles of ends of justice particularly in contexts with matrimonial dispute. Relevant paras of the judgment is reproduced below:-

"12) The special features in such matrimonial matters are evident. It becomes the duty of the Court to encourage genuine settlements of matrimonial disputes.

13) The observations made by this Court, though in a slightly different context, in G.V. Rao v. L.H.V. Prasad & Ors. [(2000) 3 SCC 693] are very apt for determining the approach required to be kept in view in matrimonial dispute by the courts, it was said that there has been an outburst of matrimonial disputes in recent times. Marriage is a sacred ceremony, the main purpose of which is to enable the young couple to settle down in life and live peacefully. But little matrimonial skirmishes suddenly erupt which often assume serious proportions resulting in commission of heinous crimes in which elders of the family are also involved with the result that those who could have counselled and brought about rapprochement are rendered helpless on their being arrayed as accused in the criminal case. There are many other reasons which need not be mentioned here for not encouraging matrimonial litigation so that the parties may ponder over their defaults and terminate their disputes amicably by mutual agreement instead of fighting it out in a court of law where it takes years and years to conclude and in that process the parties lose their "young" days in chasing their "cases" in different courts.

14) There is no doubt that the object of introducing Chapter XX-A containing Section 498A in the Indian Penal Code was to prevent the torture to a woman by her husband or by relatives of her husband. Section 498A was added with a view to punishing a husband and his relatives who harass or torture the wife to coerce her or her relatives to satisfy unlawful demands of dowry. The hyper-technical view would be counter productive and would act against interests of women and against the object for which this provision was added. There is every likelihood that non-exercise of inherent power to quash the proceedings to meet the ends of justice would prevent women from settling earlier. That is not the object of Chapter XXA of Indian Penal Code.

15) In view of the above discussion, we hold that the High Court in exercise of its inherent powers can quash criminal proceedings or FIR or complaint and Section 320 of the Code does not limit or affect the powers under Section 482 of the Code."

8. In the case of **Najmul Hasan and others vs. State of U.P. and others**; this Court has observed in paras 15 & 16 that:-

"15) Considering the compromise arrived at between the parties on 07.05.2018, as extracted above in paragraph 5 and the categorical stand of the opposite party No.3 before this Court, we are of the considered opinion that no useful purpose would be served in continuation of criminal proceedings in pursuance of the impugned First Information Report lodged by opposite party No.3. Accordingly, it would be appropriate, in the facts and circumstances of the case, to quash the impugned First Information Report as continuation of the proceedings of the First Information Report would be a futile exercise.

16) We, therefore, allow the writ petition and quash the proceedings of the First Information Report dated 14.09.2017, vide Case Crime No.0404 of 2017, under Sections 498-A, 323, 377, 506 of Indian Penal Code and Section 3/4 of Dowry Prohibition Act, 1961 at Police Station Sahadatganj, District Lucknow, lodged by Smt.Anjum Rizvi-the opposite party No.3."

9. The Hon'ble Apex Court in the case of **Gian Singh vs. State of Punjab, 2012(10) SCC 303** has held in para-61 that;

"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 pre-dominantly civil favour 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 ca

"9. On going through the factual details, earlier decision,

various offences Under Section 320 of the Code and invocation of Section 482 of the Code, we fully concur with the said conclusion. In the case on hand, irrespective of the earlier dispute between Respondent No. 2-the complainant and the Appellant being Accused No. 3 as well as Accused Nos. 1 and 2 subsequently and after getting all the materials, relevant details etc., the present Appellant (Accused No. 3) sworn an affidavit with bona fide intention securing the right, title and interest in favour of Respondent No. 2 herein-the Complainant. In such bona fide circumstances, the power Under Section 482 may be exercised. Further, in view of the settlement arrived at between Respondent No. 2-the complainant and the Appellant (Accused No. 3), there is no chance of recording a conviction insofar as the present Appellant is concerned and the entire exercise of trial is destined to be an exercise in futility. Inasmuch as the matter has not reached the stage of trial, we are of the view that the High Court, by exercising the inherent power Under Section 482 of the Code even in offences which are not compoundable Under Section 320, may quash the prosecution. However, as observed in *Shiji* (supra), the power Under Section 482 has to be exercised sparingly and only in cases where the High Court is, for reasons to be recorded, of the clear view that continuance of the prosecution would be nothing but an abuse of the process of law. In other words, the exercise of power must be for securing the ends of justice and only in cases where refusal to exercise that power may result in the abuse of the process of law."

se 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."

10. In case of **Jitendra Raghuvanshi and others vs. Babita Raghuvanshi and others**; Hon'ble Supreme Court has again reiterated the findings as laid down in the case of *B.S. Joshi* (Supra).

11. In the case of **Jayrajsinh Digvijaysinh Rana Vs. State of Gujarat and another [2012 CJ (SC) 896]** in which the Apex Court has held in para 9 that if the cases are non compoundable under Section 320 Cr.P.C. even then the such a criminal matter can be quashed on the basis of mutual compromise where the chance of conviction is bleak. The relevant para 9 of the case is reproduced as under:

"9. On going through the factual details, earlier decision, various offences Under Section 320 of the Code and invocation of Section 482 of the Code, we fully concur with the said conclusion. In the case on hand, irrespective of the earlier dispute between Respondent No. 2-the complainant and the Appellant being Accused No. 3 as well as Accused Nos. 1 and 2 subsequently and after getting all the materials, relevant details etc., the present Appellant (Accused No. 3) sworn an affidavit with bona fide intention securing the right, title and interest in favour of Respondent No. 2 herein-the Complainant. In such bona fide circumstances, the power Under Section 482 may be exercised. Further, in view of the settlement arrived at between Respondent No. 2-the complainant and the Appellant (Accused No. 3), there is no chance of recording a conviction insofar as the present Appellant is concerned and the entire exercise of trial is destined to be an exercise in futility. Inasmuch as the matter has not reached the stage of trial, we are of the view that the High Court, by exercising the inherent power Under Section 482 of the Code even in offences which are not compoundable Under Section 320, may quash the prosecution. However, as observed in Shiji (supra), the power Under Section 482 has to be exercised sparingly and only in cases where the High Court is, for reasons to be recorded, of the clear view that continuance of the prosecution would be nothing but an abuse of the process of law. In other words, the exercise of power must be for securing the ends of justice and only in cases where refusal to exercise that power may result in the abuse of the process of law."

12. Since, parties of the dispute have amicably settled their dispute it will be futile to engage them in further litigation. It may be sheer wastage of valuable time to Court also.

13. Accordingly, the writ petition is **allowed** and the impugned F.I.R. dated 25.08.2023 registered as Case Crime No. 510/2023, Under Sections 409, 420 I.P.C. at Police Station - Gomti Nagar, District Lucknow East, Commissionerate, Lucknow lodged against the petitioner as contained in Annexure No.1 to the writ petition is hereby quashed.

Order Date :- 18.11.2023

Sumit Kumar