

Court No. - 28

Case :- APPLICATION U/S 482 No. - 10197 of 2023

Applicant :- Haji Abdul Kalam Alias Abul Kalam And 2 Others

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

Counsel for Applicant :- Garima Singh

Counsel for Opposite Party :- G.A.,Upendra Kumar Singh

Hon'ble Shree Prakash Singh,J.

At the very outset, learned counsel for the applicants submits that due to inadvertent error, the prayer for quashing the impugned prayer could not be transcribed in the memo of petition and therefore his submission is that he may be permitted to correct the prayer clause during the course of the day.

Learned AGA for the State has no objection to the aforesaid prayer.

In view of the aforesaid prayer, learned counsel for the applicants may be permitted to correct the prayer during the course of the day.

Vakalatnama filed by Sri Upendra Kumar Singh, Advocate, on behalf of opposite party no.2, is taken on record.

Heard Ms. Garima Singh, learned counsel for the applicants, Sri Nirmal Kumar Pandey, learned AGA for the State as well as Sri Upendera Kumar Singh, learned counsel for the opposite party no.2 and perused the record.

The instant application has been filed with prayer for quashing of the Charge-sheet No. 98/2019, dated-24-03-2019 (State vs. Haji Abdul Kalam and Others) u/s 307, 504, 506 IPC, Police Station Kotwali Dehat, District Bahraich, pending in the Court of Chief Judicial Magistrate, Bahraich.

Learned counsel for the applicants submits that though the FIR was lodged by opposite party no.2 against the applicants u/s 307,504,506 IPC but it is a no injury case and the same has specifically been mentioned in Para 7 of the application. She also added that it has been alleged that the fire was opened but as per the injury report, which has been annexed at page no.43 of the application, there is no such injury on the body of the injured. She further added that the applicants and the opposite

party no.2 are the residents of the same locality and after some period of time they sat together and have settled their dispute amicably, that too has been reduced in writing as compromise deed on 11.10.2023. She next added that now there is no dispute in between the parties and allowing further criminal proceedings against the applicants would be futile exercise.

In support of her contention, she has placed reliance on a case of **The State Of Madhya Pradesh vs Laxmi Narayan decided on 5 March, 2019 in CRIMINAL APPEAL NO.349 OF 2019 (Supreme Court of India)** and has referred to the para 15.4 of the same which is quoted hereinunder.

"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 the Arms Act etc. which have a serious impact on the society cannot be quashed in exercise of powers under Section 307 IPC 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;"

Referring the aforesaid, she submits that the case of the present applicants is squarely covered with the ratio of the judgment above-said and submits that the criminal proceedings against the applicants may be quashed.

On the other hand, learned counsel for opposite party no.2 has also supported the version of the learned counsel for the applicants and submits that the applicants and the opposite

party no.2 have settled their dispute amicably and there is no grievance against each other, thus, the criminal proceedings may be dropped.

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

Now whether the parties have, in fact, compromised the matter or not, can best be ascertained by the court below as such compromise has to be duly verified in presence of the parties concerned before the Court.

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 and it will be open to the applicants to approach this Court again for quashing of the proceedings.

For a period of one month, the proceedings of Case No.11610 of 2019, shall remain stayed so far as applicants are concerned.

The trial Court is further directed to ensure whether all the parties, against whom the charge sheet was filed, are present before the trial court and a report to this effect shall also be sent along with the verification order.

Office is directed to return the original compromise deed to the learned counsel for the applicants, if any, after retaining the photocopy of the same on record.

Order Date :- 17.10.2023
Manoj K.