

Court No. - 11

Case :- APPLICATION U/S 482 No. - 12575 of 2023

Applicant :- Shailendra Kumar Sharma

Opposite Party :- State Of U.P. Thru. The Secy. Home Deptt. Civil Sectt. Lko. And Another

Counsel for Applicant :- Saurabh Srivastava,Km.Pratibha Vaish

Counsel for Opposite Party :- G.A.

AND

Case :- APPLICATION U/S 482 No. - 12499 of 2023

Applicant :- Shubham Sharma @ Sagar

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

Counsel for Applicant :- Sanjay Kumar Singh

Counsel for Opposite Party :- G.A.

Hon'ble Saurabh Lavania,J.

Dr. Sanjay Kumar Singh and Sri Prashant Singh, learned Advocates, has put in appearance by on behalf of opposite party no. 2 in Application U/s 482 Cr.P.C. No. 12499 of 2023 and filed their Vakalatnama, which is taken on record.

At the very outset, Sri Saurabh Srivastava learned Counsel for the applicant submitted that earlier Application under Section 482 No. 2812 of 2023 was filed by the applicant and due to some formal defect it was withdrawn on 04.04.2023.

Heard Sri Sanjay Kumar Singh, Sri Prashant Singh, Sri Saurabh Srivastava, Ms. Km. Pratibha Viash, Sri Susheel Kumar learned A.G.A. and Sri Anirudh Kumar Singh, learned A.G.A. and perused the records.

The Application U/s 482 Cr.P.C. No. 12575 of 2023, has been filed for the following main relief:-

"Wherefore it is most respectfully prayed that this Hon'ble High Court may be kindly be pleased to quash charge sheet 17.12.22 filed against the petitioner u/ s 323/504 /506 / 354(KHA)/ 376 IPC in case crime 660/22 State of U.P. Versus Shailendra Kumar Sharma,P.S. Kotwali Nagar, Raebareli and quash the entire the criminal proceeding of case no. 3280/2023 (S.T. No. 1308/23) arising out of Case crime no. 660/22 and quash the cognizance order dated 7.2.23.

It is further prayed that the Hon'ble Court may kindly be pleased to stay the proceeding of case no. 1308/2023 during the pendency of this petition."

The Application U/s 482 Cr.P.C. No. 12499 of 2023, has been filed for the following main relief:-

"i. to quash the entire criminal proceedings pending in the Court of Addl. Session Judge,/ F.T.C. II, Raebareli in Session Trial No. 372/2023 State Versus Shubham Sharma, including impugned Charge Sheet No. 01/2023 filed in Case Crime No. 0809/2022, U/s- 376, 452 & 506 IPC, Police Station Kotwali, District Raebareli, on the basis of joint compromise dated 16.10.2023 drawn/executed between the opposite party no. 2 and the petitioner, through Settlement Agreement, Mediation and Conciliation Center Allahabad High Court, Lucknow, in compliance of order dated 06.07.2023 passed by this Hon'ble Court in Application U/S 482 No. 4024

of 2023: Uma Shankar Sharma & Ors. Versus State of U.P. & Anr., contained as Annexure No. 1 and Annexure No. 3 to this petition,

ii. stay the further proceedings of Session Trial No. 372/2023, State Versus Shubham Sharma, pending before Addl. Session Judge/F.T.C. II, Raebareli, during pendency of present petition."

For the purposes of main relief sought in the above noted applications, it has been submitted by learned Counsel for the parties that to a family dispute which in fact relates to ancestral property a criminal colour was given by lodging FIR i.e. Case Crime No. 0809 of 2022 u/s 376/452/506 IPC, Police Station Kotwali Nagar, District Raebareli, by opposite party no.2 in Application U/s 482 No. 12499/2023, who is 'Devrani' of one Ranjana Sharma and this Ranjana Sharma is the mother-in-law of applicant Shubham Sharma alias Sagar and thereafter in counterblast an FIR was lodged by mother-in-law of the applicant against the applicant of Application U/s 482 Cr.P.C. No. 12575 of 2023 namely Shailendra Kumar Sharma, who is the husband of informant/opposite party no.2 in Application U/s 482 Cr.P.C. No. 12499 of 2023, u/s 323/504/506/376/354(kha) IPC, Police Station Kotwali Nagar, District Raebareli.

It has further been indicated that considering the facts and circumstances of the case, this Court vide order dated 06.07.2023 passed in Application U/s 482 Cr.P.C. No. 4024 of 2023 (Uma Shanker Versus State of U.P. and Others) was pleased to refer the matter to Mediation and Conciliation Centre of this Court so as to carve out possibility of amicable settlement of dispute between the parties and appeared before the Mediation and Conciliation Centre of this Court in terms of order of this Court dated 06.07.2023, the parties and by the sincere efforts of the mediators namely Sri Anuj Kudeshia and Mr. Kazi Mohammad, learned Advocates, the parties have agreed to settle their dispute and SETTLEMENT AGREEMENT is annexed as Annexure No. 5 to the present application.

Further submission is that a perusal of the contents of SETTLEMENT AGREEMENT dated 16.10.2023 shows that dispute between the parties was with regard to ancestral property. In this regard reference has been made to para 6 and being relevant the same is extracted hereinunder:-

"A. That the parties have agreed that Sandhya Sharma (First Party No. iv) shall execute a gift deed of one plot Gata No. 359 measuring 2461.87 Sq. Ft. situated at Rampur, Raebareli in favour of Smt. Ranjana Sharma (Second Party) by 19 October, 2023 and Sri Uma Shankar Sharma (First Party No. 1) shall execute a gift deed of an agricultural land bearing Khasra No. 37 measuring 7 biswa and 7 baiswansi situated at Rasi Gaon, Pargana- Sareni, Tehsil-Lalganj, District-Raebareli by 27th October, 2023.

B. That the parties have agreed that Smt. Ranjana Sharma (Second Party) and her legal heirs shall waive off her claim against the ancestral house and movable property of her in laws in the name of her late husband Sri Dharmendra Kumar Sharma and herself and to vacate the possession by 19th October, 2023.

C. That the parties have agreed to withdraw all the cases filed against each other. The details of the cases are mentioned hereunder:

(1) Case Crime No. 0809 of 2022 U/S 452, 376, 506 IPC, P. S. Kotwali Nagar, District-Raebareli.

(II) Case Crime No. 660 of 2022 U/S 376, 354 Kha, 323, 504, 506 IPC P.S. Kotwali Nagar, District-Raebareli.

(III) Case No. 392 of 2022 U/S 12 D. V. Act P. S. Kotwali Nagar, District-

Raebareli.

(IV) Complaint Case No. 4498 of 2022 U/S 323, 504, 506 IPC P. S. Kotwali Nagar, District-Raebareli.

(V) Case Crime No.241 of 2023 U/S 504,506, 323, IPC P. S. Kotwali Nagar, District-Raebareli.

(VI) Crl. Misc. Application (Bail Cancellation) No. 353 of 2023 (Ranjana Sharma Vs. Shailendra Kumar Sharma and Another).

D. The Second Party agrees that she shall not have any objection if the APPLICATION U/s 482 No. 4024 of 2023 (Uma Shankar Sharma and Others Vs. State of U. P. and Another) is decided in terms of this settlement agreement.

E. In addition to above mentioned case, if any other case(s) related to present dispute is pending between the parties, both the parties shall not have any objection if the case(s) is disposed of by the Hon'ble Court in terms of this Settlement Agreement.

F. That it is also agreed between the parties that neither they themselves nor any member of their respective families shall institute any case in future in the form of criminal or civil proceedings against each other or against any of their relative or family members in respect of their present dispute or any matter incidental thereto and if any proceeding has already been initiated, both the parties would get it disposed of in terms of this settlement Agreement.

G. That both the parties shall be bound by the terms and conditions of this Settlement in strict sense. In case of any default, the party committing default shall be liable for playing fraud with the Court, hence for contempt of the Court."

Further submissions is that in view of the settlement arrived between the parties before the Mediation and Conciliation Centre of this Court on 16.10.2023, the chances of conviction in the pending proceedings before the trial court is extremely bleak and no fruitful purpose would be served in keeping the proceedings pending before this Court. As such, in these circumstances indulgence of this Court is required in the matter else the dispute between the parties would prolong for undetermine period.

Further submissions is that in terms of compromise/ SETTLEMENT AGREEMENT dated 16.10.2023, the property to Smt. Ranjana Sharma informant of Case Crime No. 0660 of 2022, has already been provided by the informant of Case Crime No. 0809 of 2022. It is submitted that a perusal of paragraph no. 6(c) would show that the parties between have agreed to withdraw all the cases filed against each other including the Case Crime No. 0809 of 2022 and Case Crime No. 660 of 2022, which are subject of the present application(s).

Learned A.G.A. has opposed the present application(s) and based upon paragraph 15 of the judgment of Hon'ble Apex Court passed in the case of **State of Madhya Pradesh Versus Laxmi Narayan and Others** reported in **(2019) 5 SCC 688**, he submitted that in both the cases the allegations of rape have been levelled, as such taking note of paragraph no. 15.2 no interference of this Court is required in the present matter. The paragraph no. 15.2 referred by the learned A.G.A. is extracted herein under:-

"15.2. Such power is not to be exercised in those prosecutions which involved heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. Such offences are not private in nature and have a serious impact on society;"

In response thereof, learned Counsel for the applicants stated that the dispute between the parties arose on account of ancestral property, which would fall under expression "family dispute" and taking note of observations made in paragraph no. 15.1 of the Hon'ble Apex Court, indulgence of this Court is required. The paragraph no. 15.1 referred by the learned Counsel for the applicants is extracted herein under:-

"15.1 That the power conferred under Section 482 of the Code to quash the criminal proceedings for the non-compoundable offences under Section 320 of the Code can be exercised having overwhelmingly and predominantly the civil character, particularly those arising out of commercial transactions or arising out of matrimonial relationship or family disputes and when the parties have resolved the entire dispute amongst themselves;"

Considering the submissions of learned Counsel for the parties and perused the records particularly the SETTLEMENT AGREEMENT dated 16.10.2023, this Court is of the view that dispute arose on account of some family dispute related to rights over the ancestral property and cross FIRs were lodged and this Court upon due consideration directed the parties to appear before Mediation and Conciliation Centre of this Court vide its order dated 06.07.2023 and in terms thereof parties appeared before the Mediation and Conciliation Centre of this Court and by the genuine efforts of our mediators namely Sri Anuj Kudeshia and Mr. Kazi Mohammad, learned Advocates, the parties have agreed to settle their dispute and signed an agreement dated 16.10.2023.

A perusal of paragraph 6(a) and 6(b) indicates that this is the matter of family dispute, as such taking note of the aforesaid as also the observations made by Hon'ble Apex Court in paragraph no. 15.1 in the case of State of Madhya Pradesh (Supra), this Court is of the view that no purpose would be served in keeping the proceedings pending before the trial court and hence, entire proceedings of Case no. 3280/2023 (S.T. No. 1308/23) arising out of Case Crime No. 660/22 and proceedings of Session Trial No. 372/2023 (State Versus Shubham Sharma) arising out of Case Crime No. 0809/2022, are hereby quashed in terms of the SETTLEMENT AGREEMENT dated 16.10.2023.

The present application U/S 482 Cr.P.C. is accordingly **allowed** in above terms.

Office/Registry is directed to send the copy of this order to concerned court forthwith.
Order Date :- 21.12.2023

Jyoti/-