

Court No. - 16

Case :- APPLICATION U/S 482 No. - 3649 of 2024

Applicant :- Satish Kumar Shukla

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

Counsel for Applicant :- Raghvendra Pratap Singh, Gaurav Srivastava, Kapil Dev Chaubey

Counsel for Opposite Party :- G.A., Kirti Kar Tripathi

Hon'ble Shamim Ahmed, J.

Heard Sri Raghvendra Pratap Singh, learned counsel for the applicant as well as Sri Kirti Kar Tripathi, learned counsel for the opposite party No.2 and Sri Ashok Kumar Singh, learned A.G.A.-I alongwith Sri Hari Shanker Bajpai, learned A.G.A.-I for the State.

Supplementary affidavit filed by learned counsel for the applicant is taken on record.

On 04.07.2024, this Court has passed the following order:-

"Heard Sri Raghvendra Pratap Singh, learned counsel for the applicant as well as Sri Kirti Kar Tripathi, learned counsel for the opposite party No.2 and Sri Ashok Kumar Singh, learned A.G.A.-I for the State.

This Court vide order dated 31.05.2024 had passed the following order:

"Heard Shri Raghvendra Pratap Singh, learned Counsel for the applicant, Shri Kirti Kar Tripathi, learned Counsel for the opposite party No.2 and Shri Ashok Kumar Singh, learned A.G.A.-I for the State-opposite party No.1 and perused the material placed on record.

The applicant, namely- Shri Satish Kumar Shukla and the opposite party No.2, namely-Ramashish Bhakta are present before this Court in person, who have been identified by their respective counsel.

In compliance of the order dated 27.05.2024 passed by this Court, the applicant has brought an original demand draft of Rs.6.50 lacs dated 29.05.2024 bearing draft No.510145 drawn in favour of the opposite party No.2, namely-Ramashish Bhakta before this Court to be paid to the opposite party No.2.

On instructions of this Court, the applicant handed over the aforesaid demand draft to the opposite party No.2 in front of this Court and the opposite party No.2 has received the same in original and also signed the photostat copy of the same, which is taken on record.

The opposite party No.2 made a submission before this Court that he alongwith his wife, namely-Parvati Devi have jointly purchased the property in question, thus, he submits on behalf of his wife also that they have no objection if the proceedings of the present case are quashed after the full and final payment is made to them. He further

submits that in compliance of the order dated 06.05.2024 passed by this Court, he has received total sum of Rs.13.50 lacs i.e. 50% of Rs.27 lacs and now only second installment i.e. an amount of Rs.13.50 lacs is remaining to be paid by the applicant.

The applicant submits before this Court that the second installment of Rs.13.50 lacs will be paid to the opposite party No.2 on 04.07.2024 as directed by this Court vide order dated 06.05.2024.

Learned Counsel for the parties have no objection to the aforesaid arrangements made by the respective parties.

Accordingly, list/put up this case on 04.07.2024 before this Court for further orders.

On the next date of listing, the applicant will bring a demand draft of Rs.13.50 lacs in favour of the opposite party No.2 and they both will again appear before this Court in person.

Interim order, already granted, is extended till the next date of listing.
"

The applicant, namely- Shri Satish Kumar Shukla and the opposite party No.2, namely-Ramashish Bhakta are present before this Court in person, who have been identified by their respective counsel.

Today, the applicant has brought a Bank Draft of Rs. 2 Lakh in favour of Ram Ashish Bhakta bearing No. 510179 dated 04.07.2024 of ICICI Bank. The receiving was given on the photo stat copy of the said Bank Draft, which was duly verified by Sri Kirti Kar Tripathi, learned counsel for the opposite party No.2. The copy of the Bank Draft and its receiving is taken on record. The original draft is giving to the opposite party No.2, namely-Ramashish Bhakta in front of Sri Kirti Kar Tripathi, learned counsel for the opposite party No.2

The applicant, namely, Satish Kumar Shukla submits that he has a land on the highway and is trying to sell it and the negotiation is going on between the parties. He further submits that he will deposit the remaining amount i.e. 11.50 Lakh within a month after selling the land at highway and he prays for some time to deposit the remaining amount.

Shri Kirti Kar Tripathi, learned Counsel for the opposite party No.2 and Shri Ashok Kumar Singh, learned A.G.A-I for the State-opposite party No.1 have no objection to the request made by the applicant that he will deposit the remaining amount within one month.

Accordingly, list this case on 07.08.2024 for further orders before this Court.

On that date, the parties shall again appear in person before this Court.

Interim order, already granted, is extended till the next date of listing."

In pursuance of the aforesaid order dated 04.07.2024, the applicant, namely-Shri Satish Kumar Shukla and the opposite party No.2, namely- Ramashish Bhakta are present before this Court in person, who have been identified by their respective counsel.

Today, the applicant has brought a Bank Draft of Rs. 11,50,000/- in favour of Ram Ashish Bhakta bearing No. 510223 dated 02.08.2024 of ICICI Bank. The receiving was given on the photo stat copy of the said Bank Draft, which was duly verified by Sri Kirti Kar Tripathi, learned counsel for the opposite party No.2. The copy of the Bank Draft and its receiving is taken on record. The original draft has been given to the opposite party No.2, namely-Ramashish Bhakta in front of Sri Kirti Kar Tripathi, learned counsel for the opposite party No.2.

Learned counsel for the applicant submits that now no amount is due as the full payment has been made to the opposite party no.2 Ramashish Bhakta, therefore, the proceedings of the instant case as well as the cases mentioned at para no.7 of the supplementary affidavit be quashed by this Hon'ble Court. The details of other cases which have been filed in respect of the payment in question are as follows:-

(i) Case No.26634/2023, under Section 138 N.I. Act, pending before learned Additional Court No.7, Lucknow.

(ii) Case No.26638/2023, under Section 138 N.I. Act, pending before learned Additional Court No.7, Lucknow.

(iii) Case No.26642/2023, under Section 138 N.I. Act, pending before learned Additional Court No.7, Lucknow.

(iv) Case No.26644/2023, under Section 138 N.I. Act, pending before learned Additional Court No.7, Lucknow.

He further submits that the original sale deed of Plot No. A-07, A-17, A-18, Minjumla Khasra No.102/3 measuring 4000 sq. ft., Village Khasarvara, Pargana Bijnaur, Tehsil Sarojini Nagar, District Lucknow has been received by Sri Satish Kumar Shukla by Sri Ramashish Bhakta in front of this Court.

On the other hand, Sri Kirti Kar Tripathi, learned counsel for the opposite party No.2 and Sri Ashok Kumar Singh, learned A.G.A.-I alongwith Sri Hari Shanker Bajpai, learned A.G.A.-I for the State also submit that since the parties have compromised the matter outside the Court and even full payment has also been received by Sri Ramashish Bhakta from Sri Satish Kumar Shukla, therefore, no useful purpose will be served by keeping the proceedings of the aforesaid cases pending. Thus, this Court may quash the proceedings of the aforesaid cases as well as of the case in hand.

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

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

(ii) Gian Ssingh 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.

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."

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**.

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 continued. In **S.W. Palankatkar & 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.

Thus, after considering the arguments as advanced by learned counsel for the parties and after perusal of record, this Court is of the view that no useful purpose will be served after keeping the aforesaid cases pending as now no amount is due upon the applicant because he has paid the full amount in question to the opposite party no.2 and even the parties have entered into a compromise outside the Court, therefore, with the assistance of the aforesaid guidelines, keeping in view the nature and gravity and the severity of the offence which are more particularly private dispute and differences, it is deemed proper and to meet the ends of justice, the proceeding of the aforementioned cases be quashed.

Accordingly, the present 482 Cr.P.C. application stands **allowed**. Keeping in view the law laid down by the Hon'ble Apex Court in the above referred judgment and in view of the statement/compromise made by the applicant as well as opposite party no.2 and the observation made above, the entire proceedings of following cases are **hereby quashed** so far as it relates to the applicant.

(i) Case No.34913/2023, Case Crime No.215/2022, under Sections 406, 420, 506 and 427 I.P.C., Police Station Banthara, District Lucknow pending in the court of learned Special Chief Judicial Magistrate (Custom), Lucknow including the impugned charge sheet dated 05.02.2023 and summoning order dated 10.04.2023.

(ii) Case No.26634/2023, under Section 138 N.I. Act, pending before learned Additional Court No.7, Lucknow.

(iii) Case No.26638/2023, under Section 138 N.I. Act, pending before learned Additional Court No.7, Lucknow.

(iv) Case No.26642/2023, under Section 138 N.I. Act, pending before learned Additional Court No.7, Lucknow.

(v) Case No.26644/2023, under Section 138 N.I. Act, pending before learned Additional Court No.7, Lucknow.

Since the original sale deed of Plot No. A-07, A-17, A-18, Minjumla Khasra No.102/3 measuring 4000 sq. ft., Village Khasarvara, Pargana Bijnaur, Tehsil Sarojini Nagar, District Lucknow has been received by Sri Satish Kumar Shukla by Sri Ramashish Bhakta in front of this Court, therefore, Sri Ramashish Bhakta will not claim any right, title or possession over the said property nor his wife, children, agent or attorney will claim their right, title or possession over the said property.

Order Date :- 7.8.2024/Saurabh