

Court No. - 16

Case :- APPLICATION U/S 482 No. - 3941 of 2024

Applicant :- Saurabh Kumar Pandey

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

Counsel for Applicant :- Raj Kumar Pandey, Ashish Kumar

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

with

Case :- APPLICATION U/S 482 No. - 2525 of 2024

Applicant :- Ashish Kumar Upadhyay

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

Counsel for Applicant :- Raj Kumar Pandey, Ashish Kumar

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

with

Case :- APPLICATION U/S 482 No. - 1136 of 2024

Applicant :- Mamta Pandey

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

Counsel for Applicant :- Ashish Kumar, Raj Kumar Pandey

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

Hon'ble Shamim Ahmed, J.

Heard Shri Ashish Kumar alongwith Raj Kumar Pandey, learned Counsel for the applicant, Shri Ram Kumar Singh, learned Counsel for opposite party No.2, Shri Ashok Kumar Singh, learned A.G.A-I for the State-opposite party No.1 and perused the material placed on record.

This application under Section 482 Cr.P.C. has been filed on behalf of the applicant seeking quashing of summoning order dated 02.02.2023 passed by the Court of Additional Chief Judicial Magistrate III, Court No. 27, Lucknow as well as quashing of entire proceeding of Compliant Case No. 436/2022: Smt Namita Singh Vs. Saurabh Pandey and others, under Sections 406, 417 I.P.C. Police Station Shushant Golf City, Lucknow.

This Court vide order dated 31.05.2024 has passed the following order:-

"1. This application under Section 482 Cr.P.C. has been filed for quashing of summoning order dated 02.02.2023 passed by the Court of Additional Chief Judicial Magistrate III, Court No. 27, Lucknow as well as quashing of entire proceeding of Compliant Case No. 436/2022: Smt Namita Singh Vs.

Saurabh Pandey and others, under Sections 406, 417 I.P.C. Police Station Shushant Golf City, Lucknow.

2. In compliance of the order dated 13.05.2024 passed by this Court, the applicant, namely-Saurabh Kumar Pandey and the opposite party No.2, Smt. Namita Singh are present before this Court, who have been identified by their respective counsel.

3. In compliance of order dated 24.05.2024, the applicant has brought a Bank Draft of Rs. 10 Lakh in favour of Smt. Namita Singh wife of Sri Rajesh Singh on behalf of the company i.e. M/s Anisa. The receiving was given on the photostat copy of the said Bank Draft, which was duly verified by Sri Ram Kumar Singh, 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 Smt Namita Singh in front of her husband Sri Rajesh Kumar Singh.

4. Smt Namita Singh as well as her husband Sri Rajesh Kumar Singh, submits that after receiving of the second installment of Rs. 10 Lakhs, they have no objection if the proceedings of all the cases, filed by them against the applicant and others may be quashed by this Court or in the mean time they may also withdraw the case pending before the concerned court. The details of the pending cases, as informed by the learned counsel for the parties are as under:

Details of pending petition before the Hon'ble High Court

A-482 No. 1136 of 2024: Mamta Pandey Versus State of U.P. and another

A-482 No. 2525 of 2024: Ashish Kumar Upadhyaya Vs. State of U.P. and another

Details of cases filed under Section 138 N.I. Act by the respondent's husband company namely M/s Anisa

Crl. Complaint No. 59989 of 2022; under section 138 N.I. Act, pending before learned Additional Court No.1, Lucknow, M/s Anisa through Rajesh Singh versus M/s Proplarity Infara structure Pvt. Ltd. & others.

Crl. Complaint No. 25901 of 2022; under section - 138 N.I. Act, pending before learned Additional Court No.1, Lucknow M/s Anisa through Rajesh Singh versus M/s Proplarity Infara structure Pvt. Ltd. & others.

Crl. Complaint No. 24895 of 2022; under section 138 N.I. Act, pending before learned Additional Court No.1, Lucknow, M/s Anisa through Rajesh Singh versus M/s Proplarity Infara structure Pvt. Ltd. & others.

5. The applicant-Sri Saurabh Kumar Pandey is directed to bring the remaining amount of Rs. 10 Lakhs (second installment) on the next date fixed i.e. on 30.07.2024.

6. List this case on 30.07.2024 before this Court for further orders along with Application under Section 482 No. 2525 of 2024 and Application under Section 482 No. 1136 of 2024.

7. On the next date of listing, both the parties shall remain present before

this Court in person.

8. Till the next date of listing, further proceedings of Compliant Case No. 436/2022: Smt Namita Singh Vs. Saurabh Pandey and others, under Sections 406, 417 I.P.C. Police Station Shushant Golf City, Lucknow, so far as it relates to present applicant, shall remain stayed."

In compliance of the order dated 31.05.2024 passed by this Court, the applicant, namely-Saurabh Kumar Pandey and the opposite party No.2, Smt. Namita Singh are present before this Court, who have been identified by their respective counsel and the applicant, namely-Saurabh Kumar Pandey has brought a demand draft of Rs.10,00,000/- (Rupees Ten Lakhs Only) to be handed over to the opposite party No.2, namely-Namita Singh bearing draft No.010154 dated 30.07.2024 drawn on Axis Bank, Gomti Nagar, Lucknow as full and final payment of Rs.20,00,000/- (Rupees Twenty Lakhs Only).

The said draft in original is handed over to the opposite party No.2, namely-Namita Singh before this Court by the applicant, namely-Saurabh Kumar Pandey. A receiving has been given by the opposite party No.2 on the photostat copy of the same and the said photostat copy of the bank draft is countersigned by learned Counsel for the opposite party No.2, which is taken on record.

Thereafter, the opposite party No.2 as well as learned Counsel for the opposite party No.2 submits before this Court that as per the arrangement made by this Court, the applicant, namely-Saurabh Kumar Pandey has paid full amount of Rs.20,00,000/- (Rupees Twenty Lakhs Only) and now no dispute remains to be adjudicated by this Court and they have amicably settled their dispute before this Court, thus, the proceedings of the present case as well as proceedings impugned in Application U/S 482 No.2525 of 2024, Application U/S 482 No.1136 of 2024 and proceedings of (1) Crl. Complaint No. 59989 of 2022; under section 138 N.I. Act, pending before learned Additional Court No.1, Lucknow, M/s Anisa through Rajesh Singh versus M/s Proplarity Infara structure Pvt. Ltd. & others (2) Crl. Complaint No. 25901 of 2022; under section - 138 N.I. Act, pending before learned Additional Court No.1, Lucknow M/s Anisa through Rajesh Singh versus M/s Proplarity Infara structure Pvt. Ltd. & others.(3) Crl. Complaint No. 24895 of 2022; under section 138 N.I. Act, pending before learned Additional Court No.1, Lucknow, M/s Anisa through Rajesh Singh versus M/s Proplarity Infara structure Pvt. Ltd. & others may be quashed by this Court exercising its jurisdiction under Section 482 Cr.P.C. They further submit that they have also filed withdrawal applications before the trial court concerned for withdrawing the cases pending in the trial court.

Learned counsel for the applicant submit that in compliance of the orders passed by this Court, the applicant has paid entire amount of Rs.20,00,000/- (Rupees Twenty Lakhs Only) to the opposite party No.2, namely-Namita Singh and she has accepted the same on her behalf and on behalf of M/s Anisa and her husband, who is the sole proprietor of M/s Anisa. They further submit that now the parties have settled their dispute amicably before this Court, therefore, no useful purpose would be served in keeping the present application pending and the cases which are mentioned above, thus, the present application as well as

other connected cases may be allowed by this Court exercising its power under Section 482 Cr.P.C. They further submit that, if any, other case(s) is/are filed by the opposite party No.2 and her husband and M/s Anisa Company against the applicant and his family members in respect of the same dispute, which is not in the knowledge of the applicant, the applicant may be granted an opportunity/liberty to file an application seeking quashing of the said case before this Court.

Learned A.G.A-I for the State submits that since the parties have entered into oral compromise and have settled their dispute before this Court, therefore, no useful purpose would be served if the proceedings of the aforesaid cases go on further.

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. Palankattkar & 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.

With the assistance of the aforesaid guidelines, keeping in view the nature and gravity and the severity of the offence which are more particularly is private dispute and differences it is deem proper and meet to the ends of justice. The proceeding of the aforementioned case be quashed.

The present 482 Cr.P.C. applications 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 statements, settlement arrived between the parties and payments made by the applicant and the observation made above, the entire proceeding of Compliant Case No. 436/2022: Smt Namita Singh Vs. Saurabh Pandey and others, under Sections 406, 417 I.P.C. Police Station Shushant Golf City, Lucknow as well as proceedings impugned in Application U/S 482 No.2525 of 2024, Application U/S 482 No.1136 of 2024 and proceedings of (1) Crl. Complaint No. 59989 of 2022; under section 138 N.I. Act, pending before learned Additional Court No.1, Lucknow, M/s Anisa through Rajesh Singh versus M/s Proplarity Infara structure Pvt. Ltd. & others (2) Crl. Complaint No. 25901 of 2022; under section - 138 N.I. Act, pending before learned Additional Court No.1, Lucknow M/s Anisa through Rajesh Singh versus M/s Proplarity Infara structure Pvt. Ltd. & others.(3) Crl. Complaint No. 24895 of 2022; under section 138 N.I. Act, pending before learned Additional Court No.1, Lucknow, M/s Anisa through Rajesh Singh versus M/s Proplarity Infara structure Pvt. Ltd. & others are hereby **quashed** so far as it relates to the instant applicant.

Further, if any, other case(s) is/are filed by the opposite party No.2 and her husband and M/s Anisa Company against the applicant and his family members in respect of the same dispute, which is not in the knowledge of the applicant, the applicant will be at liberty to file an application seeking quashing of the said case before this Court, annexing the copy of this order.

Order Date :- 30.7.2024

Piyush/-