Neutral Citation No. - 2024:AHC-LKO:40303

Court No. - 27

Case :- APPLICATION U/S 482 No. - 4850 of 2024
Applicant :- Durga Shankar Bajpai And 2 Others
Opposite Party :- State Of U.P. Thru. Its Home Secy. Deptt. Of Home And 3 Others
Counsel for Applicant :- Anand Kumar Sharma,Vaibhav Sharma
Counsel for Opposite Party :- G.A.,Aakash Rai

Hon'ble Shamim Ahmed,J.

1. Sri Aakash Rai**,** Advocate has filed his Vakalatnama on behalf of opposite party No.2 today in Court. The same is taken on record.

2. Heard Sri Anand Kumar Sharma, learned counsel for applicant as well as Sri Aakash Rai, learned counsel for the opposite party No.2 and Ms. Ankita Tripathi, learned AGA for the State and perused the record.

3. This application u/s 482 Cr.P.C. has been filed with the prayer to quash the impugned charge-sheet dated 19.09.2001 and impugned cognizance and summoning order dated 08.11.2001 and all subsequent proceedings in Session Trial No. 8 of 2009: State Vs. Durga Shankar and others, Crime No. 194A of 2001, under Sections 323, 504, 506, 455, 308 I.P.C., Police Staton Ashiyana, District Lucknow, pending in the Court of learned Additional Sessions Judge/ Special Judge Prevention of Corruption Act-IV, Lucknow.

4. Sri Aakash Rai learned counsel for the opposite party No.2 submits that his client is not interested to pursue any further and he has no objection if the proceedings of the present case be quashed.

5. Learned counsel for the applicants submits that in compliance of the order passed by this Court the applicants filed compromise deed before the court of Additional Sessions Judge/Special Judge-Special Court No.4, (Prevention of Corruption Act) Lucknow and the concerned court vide its order dated 22.03.2024 verified the said compromise in the presence of the applicants and opposite party no.2, copy of which is annexed as Annexure 10 to the affidavit filed in support of the application.

6. Learned Additional Government Advocate has submitted that since the parties have entered into compromise, which has also been

verified by the court below, therefore, no useful purpose would be served if the proceedings of the aforesaid case go on further.

7. Learned counsel for the parties has 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.

8. 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.
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> 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.
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> 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."

9. 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 (Crl.)426, (iii) State of Bihar Vs. P.P. Sharma, 1992 SCC (Crl.)192 and (iv) Zandu Pharmaceutical Works Ltd. Vs. Mohd. Saraful Haq and another, (Para-10) 2005 SCC (Cri.) 283.**

10. 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 continue. 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.

11. 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.

12. 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 applicants as well as entire proceedings of Session Trial No. 8 of 2009: State Vs. Durga Shankar and others, Crime No. 194A of 2001, under Sections 323, 504, 506, 455, 308 I.P.C., Police Staton Ashiyana, District Lucknow, pending in the Court of learned Additional Sessions

Judge/Special Judge Prevention of Corruption Act-IV, Lucknow opposite party no.2 and impugned charge-sheet dated 19.09.2001 and impugned cognizance and summoning order dated 08.11.2001 are hereby quashed.

13. The party shall file computer generated copy of such order downloaded from the official website of High Court Allahabad or certified copy issued from the Registry of the High Court, Allahabad.

14. The concerned Court/Authority/Official shall verify the authenticity of such computerized copy of the order from the official website of High Court Allahabad and shall make a declaration of such verification in writing.

Order Date :- 25.05.2024
Arvind

Digitally signed by :-
ARVIND KUMAR SRIVASTAVA
High Court of Judicature at Allahabad,
Lucknow Bench