

Court No. - 27

Case :- APPLICATION U/S 482 No. - 8162 of 2019

Applicant :- Mangeram Mogha And Ors.

Opposite Party :- State Of U.P. And Anr.

Counsel for Applicant :- Manoj Kumar Dwivedi, Arun Kumar Dwivedi, Sanchita Singh

Counsel for Opposite Party :- G.A., Vikrant Raghuvansh

Hon'ble Shamim Ahmed, J.

1. Heard Sri Manoj Kumar Dwivedi, learned counsel for applicants as well as Sri Vikrant Raghuvanshi, learned counsel for the opposite party no.2 and Sri Ashok Kumar Singh, learned A.G.A-I, for the State as well as perused the record.

2. Instant application under Section 482 CrPC has been filed for quashing of the charge-sheet dated 30.06.2019 filed by the Investigating Officer in F.I.R./Case Crime No. 671/2018, under Sections 323, 452, 504, 506, 325 I.P.C., Police Station Krishna Nagar, District Lucknow and the entire proceedings of Case No. 44043/2019 arising out of F.I.R./Case Crime No. 671/2018, under Sections 323, 452, 504, 506, 325 I.P.C., Police Station Krishna Nagar, District Lucknow, pending before the court of Additional Chief Judicial Magistrate, Seventh, Room No. 31, Lucknow.

3. This Court vide order dated 26.04.2024 passed the following order:

"Heard Shri Manoj Kumar Dwivedi, learned Counsel for the applicants, Shri Vikrant Raghuvanshi, learned Counsel for the 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.

In compliance of the order dated 15.04.2024, the applicant No.5, namely-Parul, her Father, namely-

Mangeram, applicant No.1, her husband, Shri Rakesh Singh and the opposite party No.2, namely-Dayaram are present before this Court, who have been identified by their respective counsel.

After some discussions and queries, it appears that the attitude of the husband of applicant No.5 is not fruitful and adjusting and it also appears from his behavior that he is not interested to settle this dispute amicably. Thus, a warning has been issued to the husband (Rakesh Singh) of applicant No.5 to watch his conduct in the Court and change his behavior or he will have to face consequences for the same.

On the other hand, the applicant No.5, Parul who is the wife of Rakesh Singh was very much submissive and wants to settle this dispute amicably and her father also made an agreement with the submission of applicant No.5.

The opposite party No.2, namely-Dayaram also tendered unconditional apology before this Court for the conduct of his son in the Court and submits that he has no problem if his son and daughter-in-law live together as husband and wife and he also submits that the dispute may be settled amicably.

In view of the above, this Court is not inclined to pass any order today as the husband did not support the proposals made by learned Counsel for the applicants and the applicant Nos.1 and 5, who are present before this Court in person, thus, this Court is granting one more opportunity to both the parties to make up their minds in order to settle their dispute amicably.

Accordingly, list/put up this case on 15.05.2024 before this Court for further orders.

On the next date fixed, the applicant No.5, namely-Parul, her Father, namely-Mangeram Mogha-applicant No.1, her husband, Shri Rakesh Singh and the opposite party No.2, namely-Dayaram shall again appear in person before this Court.

Till the next date of listing, further proceedings of Complaint Case No.625 of 2019; Dayaram Singh vs. Mangeram and others, under Section 147, 504 and 506 I.P.C., Police Station-Wazirganj, District-Lucknow shall remain stayed so far it relates to the present applicants."

4. In compliance of order dated 26.04.2024, the applicant No.5, namely-Parul, her Father, namely-Mangeram Mogha-applicant No.1, her husband, Shri Rakesh Singh and the opposite party No.2, namely-Dayaram are present before this Court and they have been identified by their respective counsels.

5. After some discussion, the parties are ready to settle their dispute amicably. Shri Rakesh Singh, husband of the applicant No.5 submits that he and his wife are living together with their daughter Vaishnavi Singh, who is a student of Class V without either of the parties and they submits that they do not want interference of any of other party or any relative in their matrimonial life.

6. The opposite party No.2, namely-Dayaram, father of Shri Rakesh Singh submits that some criminal cases were filed by the father of the applicant No.5, namely-Parul, namely Mangeram and he also filed some criminal cases against family members of applicant No.5, namely-Parul, namely Mangeram.

7. The father of the applicant No.5, namely-Parul, namely Mangeram submits that he is not interested to pursue the matter any further pending before the trial court and he has no objection if the proceedings of the case be quashed by this Court, exercising power under Section 482 Cr.P.C. and he also insured this Court that in future he will not lodge any criminal or civil case against the family members of the husband-Rakesh Singh.

8. The opposite party No.2, namely-Dayaram, father of Shri Rakesh Singh assured the Court that whatever the cases filed by him may also be quashed by this Court exercising power under Section 482 Cr.P.C. and assured the Court that he will not file any civil or criminal cases against Mangeram or his family. All the parties, who are present before this Court submit that the whatever the dispute was there between them, have been resolved and submit that the criminal cases which were filed be quashed by this Court, in the interest of justice, as the cases were filed on the counter blast to one or to other filed by the parties. The details of which have been provided by the parties, which are as under:

1. Case No. 44058 of 2021 : State Vs. Rakesh Singh and others under Sections 498A, 323, 504, 506 I.P.C. and Section 3/4 Dowry Prohibition Act, Police Station Krishna Nagar, Lucknow, pending in the Court of Additional Chief Judicial Magistrate, Lucknow.
2. Case No. 44043 of 2019: State Vs. Mangeram and others under Section 452, 323, 325, 504, 506 (II) I.P.C. Police Station Krishna Nagar, Lucknow, pending in the Court of Additional Chief Judicial Magistrate, Lucknow.
3. Complaint No. 625/2019: Dayaram Singh Vs. Mangeram and others, under Sections 147, 504 506 I.P.C.

Police Station Krishna Nagar, Lucknow, pending in the Court of Additional Chief Judicial Magistrate, Lucknow.

4. Complaint No. 35/2024: Parul Rani Vs. Rakesh Singh and others under Sections 511/364, 384/392, 323, 504, 506 I.P.C., Police Station Sadar Bazar, Saharanpur, pending in the Court of Additional Civil Judge (J.D.), Ist, Saharanpur.

5. Misc. Case No. 909/2023: Dayaram Singh Vs. Manish and others, under Section 420, 197, 203, 120B I.P.C., Police Station Sadar Bazar, Saharanpur, pending in the court of C.J.M. Saharanpur.

6. State Vs. Mangeram under Section 504/506 I.P.C., Police Station Sadar Bazar, Saharanpur, pending in the court of C.J.M. Saharanpur.

9. Sri Ashok Kumar Singh, learned A.G.A.-I for the State also made an agreement with the proposal given by the learned counsel for the parties as well as by the parties that the proceedings of all the criminal cases filed by either of the parties may be quashed by this Court and the matrimonial life of husband and wife, namely, Rakesh Singh and Parul may not be disturbed by the family members of both the parties in future and they should be allowed to live their independent happy life with their daughter.

10. After considering the entire facts and circumstances of the case as well as after considering the arguments as advanced by learned counsel for the parties, this Court finds it appropriate to discuss some judgments which have been pronounced by Hon'ble the Supreme Court of India.

11. Hon'ble the Supreme Court of India in the case of **Lalankumar Singh and Others vs. State of Maharashtra** reported in **2022 SCC**

Online SC 1383 has specifically held in paragraph No.38 that the order of issuance of process is not an empty formality. The Magistrate is required to apply his mind as to whether sufficient ground for proceeding exists in the case or not. Paragraph No.38 of **Lalankumar Singh and Others (supra)** is being quoted hereunder:-

"38. The order of issuance of process is not an empty formality. The Magistrate is required to apply his mind as to whether sufficient ground for proceeding exists in the case or not. The formation of such an opinion is required to be stated in the order itself. The order is liable to be set aside if no reasons are given therein while coming to the conclusion that there is a prima facie case against the accused. No doubt, that the order need not contain detailed reasons. A reference in this respect could be made to the judgment of this Court in the case of Sunil Bharti Mittal v. Central Bureau of Investigation, which reads thus:

"51. On the other hand, Section 204 of the Code deals with the issue of process, if in the opinion of the Magistrate taking cognizance of an offence, there is sufficient ground for proceeding. This section relates to commencement of a criminal proceeding. If the Magistrate taking cognizance of a case (it may be the Magistrate receiving the complaint or to whom it has been transferred under Section 192), upon a consideration of the materials before him (i.e. the complaint, examination of the complainant and his witnesses, if present, or report of inquiry, if any), thinks that there is a prima facie case for proceeding in respect of an offence, he shall issue process against the accused.

52. A wide discretion has been given as to grant or refusal of process and it must be judicially exercised. A person ought not to be dragged into court merely because a complaint has been

filed. If a prima facie case has been made out, the Magistrate ought to issue process and it cannot be refused merely because he thinks that it is unlikely to result in a conviction.

53. However, the words "sufficient ground for proceeding" appearing in Section 204 are of immense importance. It is these words which amply suggest that an opinion is to be formed only after due application of mind that there is sufficient basis for proceeding against the said accused and formation of such an opinion is to be stated in the order itself. The order is liable to be set aside if no reason is given therein while coming to the conclusion that there is prima facie case against the accused, though the order need not contain detailed reasons. A fortiori, the order would be bad in law if the reason given turns out to be ex facie incorrect."

12. Further, Hon'ble the Supreme Court of India has provided guidelines in case of State of **Haryana Vs. Bhajan Lal** reported in **1992 Supp (1) SCC 335** for the exercise of power under Section 482 Cr.P.C. which is extraordinary power and used separately in following conditions:-

"102.(1) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused."

(2) where the allegations in the First Information Report and other materials, if any, accompanying the F.I.R. do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code;

(3) where the uncontroverted allegations made in the FIR or 'complaint and the evidence collected in support of the same do not disclose the

commission of any offence and make out a case against the accused;

(4) where the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code;

(5) where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused;

(6) where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party;

(7) where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge."

13. Further 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 Bihar Vs. P.P. Sharma, 1992 SCC (CrL.)192**, (iii) **Zandu Pharmaceutical Works Ltd. Vs. Mohd. Saraful Haq and another, (Para-10) 2005 SCC (Cri.) 283** and (iv) **Neeharika Infrastructure Pvt. Ltd. Vs. State of Maharashtra, AIR 2021 SC 1918**.

14. 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 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.

15. In **M/s Pepsi Food Ltd. and another Vs. Special Judicial Magistrate and others: 1998 (5) SCC 749**, Hon'ble Apex Court has observed:

"Summoning of an accused in a criminal case, is a serious matter. Criminal law can not be set into motion as a matter of course. It is not that the complainant has to bring only two witnesses to support his allegations in the complaint to have the criminal law set into motion. The order of the Magistrate summoning the accused must reflect that he has applied his mind to the facts of the case and the law applicable thereto. He has to examine the nature of allegations made in the complaint and the evidence both oral and documentary in support thereof and would that be sufficient for the complainant to succeed in bringing charge home to the accused. It is not that the Magistrate is a silent spectator at the time of recording of preliminary evidence before summoning the accused. Magistrate had to carefully scrutinize the evidence brought on record and may even himself put questions to the complainant and his witnesses to elicit answers to find out the truthfulness of the allegations or otherwise and then examine if any offence is prima facie committed by all or any of the accused."

16. 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.

17. 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 made by the applicants as well as opposite party no.2 and the observation made above, the entire proceedings of Case No. 44043/2019 arising out of F.I.R./Case Crime No. 671/2018, under Sections 323, 452, 504, 506, 325 I.P.C., Police Station Krishna Nagar, District Lucknow, pending before the court of Additional Chief Judicial Magistrate, Seventh, Room No. 31, Lucknow and charge-sheet dated 30.06.2019 filed by the Investigating Officer in F.I.R./Case Crime No. 671/2018, under Sections 323, 452, 504, 506, 325 I.P.C., Police Station Krishna Nagar, District Lucknow are hereby quashed so far as it relates to the instant applicants.

18. Office is directed to transmit a copy of this order to the learned trial court(s) concerned immediately.

19. 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.

20. 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 :- 15.5.2024

Arvind