

Court No. - 27

Case :- APPLICATION U/S 482 No. - 8354 of 2022

Applicant :- Shafeeq Ahmad Siddiqui And Another

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

Counsel for Applicant :- Amol Kumar Srivastava

Counsel for Opposite Party :- G.A.,Ajeet Kumar Singh,Vishal Kumar Srivastava

Hon'ble Shamim Ahmed,J.

Heard Shri Amol Kumar Srivastava, learned counsel for applicants, Shri Vishal Kumar Srivastava, learned counsel for the opposite party no.2 and Shri Ashok Kumar Srivastava, learned A.G.A., for the State as well as perused the record.

This application u/s 482 Cr.P.C. has been filed on behalf of the applicants seeking quashing of the entire proceedings of Case No.78811 of 2021; State of U.P. vs. Javed Ahmad and others, arising out of Case Crime No.354 of 2019, under Sections 498-A, 323 and 504 I.P.C., Police Station-Sarojini Nagar, District-Lucknow, including chargesheet No.01 of 2020, dated 28.07.2020 as well as summoning order dated 07.10.2021.

Learned counsel for the applicants submits that this Court vide order dated 30.04.2024 passed in Application Under Section 482 No.2237 of 2024 has been pleased to allow the aforesaid application and has quashed the entire proceedings of the aforesaid case so far it relates to the applicants therein and this application is also arising out of same criminal case which has been initiated against the father-in-law and mother-in-law of the opposite party No.2 as the opposite party No.2 and the applicants have settled their dispute by way of compromise deed dated 26.02.2024 which has also been verified by learned trial court on 09.04.2024 in the presence of the applicants and opposite party No.2, which is annexed in the Application Under Section 482 No.2237 of 2024.

The order dated 30.04.2024 passed by this Court in Application Under Section 482 No.2237 of 2024 is reproduced hereinunder:-

"Heard Sri Amol Kumar Srivastava, learned counsel for applicants, Ajeet Kumar Singh, learned counsel for the opposite party no.2 and learned A.G.A., for the State as well as perused the record.

The present petition under Section 482 Cr.P.C. has been filed by the petitioners with the prayer to quash the entire proceedings of Criminal Case No. 78811 of 2021; State of U.P. Vs. Javed Ahmad and Others, arising out of Case Crime No. 354 of 2019, under Sections 498A, 323, 504 IPC, Police Station Sarojini Nagar, District Lucknow, including chargesheet no. 01 of 2020, dated 28.07.2020 as well as summoning order dated 07.10.2021 issued by learned Judicial Magistrate-III, Lucknow, which is pending before the Additional Chief Judicial Magistrate-8, Lucknow,

contained as Annexure no. 2 to the petition.

This Court vide order dated 07.03.2024 passed the following order:-

"1. Heard Sri Parvej Ahmad holding brief of Sri Amol Kumar Srivastava, learned counsel for the petitioners, Sri Aatreya Tripathi, learned Additional Government Advocate for the State as well as Sri Vishal Kumar Srivastava, Advocate, who has filed Vakalatnama on behalf of opposite party no.2. His Vakalatnama is taken on record.

2. The present petition under Section 482 Cr.P.C. has been filed by the petitioners with the prayer to quash the entire proceedings of Criminal Case No. 78811 of 2021; State of U.P. Vs. Javed Ahmad and Others, arising out of Case Crime No. 354 of 2019, under Sections 498A, 323, 504 IPC, Police Station Sarojini Nagar, District Lucknow, including chargesheet no. 01 of 2020, dated 28.07.2020 as well as summoning order dated 07.10.2021 issued by learned Judicial Magistrate-III, Lucknow, which is pending before the Additional Chief Judicial Magistrate-8, Lucknow, contained as Annexure no. 2 to the petition.

3. Learned counsel for the petitioner has submitted that the dispute is matrimonial in nature. He has further submitted that the petitioners and opposite party no. 2 have amicably compromised their dispute on 26.02.2024. The compromise taken place between the parties has been annexed with this petition as Annexure No.10.

4. Learned counsel for opposite party no. 2 has also agreed on the submission of learned counsel for the petitioners that the parties have entered into a compromise.

5. Whether the parties have, in fact, compromised the matter or not, can best be ascertained by the Court below as such compromise has to be duly verified in presence of the parties concerned before the Court.

6. Accordingly, for the purpose of verification of the compromise, the petitioners and opposite party no. 2 shall appear before the learned Additional Chief Judicial Magistrate-8, Lucknow on 20.03.2024 alongwith original compromise deed and the learned court below shall proceed to verify the compromise deed. If the aforesaid compromise is verified, a report to that effect shall be prepared by the court below and the same shall be sent to this Court by the next date of listing. The compromise will be made part of the record. The court below in that scenario will allow the parties to obtain certified copy of the report as well as compromise.

7. List the matter before this Court on 18.04.2024.

8. Till the next date of listing, the petitioners shall not be compelled to face the criminal proceedings in pursuance of the aforesaid case.

9. Office is directed to return the original compromise to the counsel for the petitioners within three working days from today and the photostat copy of the same will be placed on record.

10. When the case is listed next, name of Sri Vishal Kumar Srivastava be printed in the cause list as learned counsel for opposite party no. 2."

Learned counsel for the applicants submits that in compliance of the order passed by this Court, the applicants filed compromise deed before the learned trial court and the concerned court vide its order dated 09.04.2024 verified the said compromise in the presence of the applicants and opposite party no.2, copy of which is annexed to the affidavit filed in support of application.

Learned A.G.A. for the State as well as learned counsel for the opposite party no.2 have submitted that since the parties have entered into compromise, which has also been verified by the trial court, therefore, no useful purpose would be served if the proceedings of the aforesaid case 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. 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 opposite party no.2 and the observation made above, the entire proceedings of Criminal Case No. 78811 of 2021; State of U.P. Vs. Javed Ahmad and Others, arising out of Case Crime No. 354 of 2019, under Sections 498A, 323, 504 IPC, Police Station Sarojini Nagar, District Lucknow, including chargesheet no. 01 of 2020, dated 28.07.2020 as well as summoning order dated 07.10.2021 issued by learned Judicial Magistrate-III, Lucknow, which is pending before the Additional Chief Judicial Magistrate-8, Lucknow are hereby quashed so far as it relates to the instant applicants."

Thus, he submits that the present application may also be allowed in terms of the order dated 30.04.2024 passed by this Court as the parties have amicably settled their dispute by way of compromise.

Learned A.G.A. for the State as well as learned counsel for the opposite party no.2 have submitted that since the parties have entered into compromise, which has also been verified by the trial court, therefore, no useful purpose would be served if the proceedings of the aforesaid case 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.

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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. application also stands **allowed** in terms of the order dated 30.04.2024 passed by this Court in Application Under Section 482 No.2237 of 2024. 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 opposite party no.2 and the observation made above, the entire proceedings of Case No.78811 of 2021; State of U.P. vs. Javed Ahmad and others, arising out of Case Crime No.354 of 2019, under Sections 498-A, 323 and 504 I.P.C., Police Station-Sarojini Nagar, District-Lucknow, including chargesheet No.01 of 2020, dated 28.07.2020 as well as summoning order dated 07.10.2021 are hereby **quashed** so far as it relates to the instant applicants.

Order Date :- 2.5.2024

Piyush/-