

Court No. - 55

Case :- APPLICATION U/S 482 No. - 3954 of 1995

Applicant :- Azizul Hasan & Others

Opposite Party :- State Of U.P. & Others

Counsel for Applicant :- A.M. Zaidi, V.M. Zaidi

Counsel for Opposite Party :- Govt. Advocate

Hon'ble Shashi Kant, J.

Heard Sri A.M. Zaidi, learned counsel for applicants, learned A.G.A. for the State of U.P. and perused the record.

This application u/s 482 Cr.P.C. has been filed for quashing the charge sheet dated 30.06.1995, under Sections 147, 148, 323, 336 I.P.C. and supplementary charge sheet dated 14.07.1995, under Sections 147, 323, 336 I.P.C. filed in Case Crime No. 255 of 1995, Police Station - Kotwali Sambhal, District - Moradabad (Annexure Nos. 12 and 14 to the affidavit). Further prayer as been made to quash the entire proceedings of S.S.T. No. 171/95 - State Vs. Azizul Hasan and Others, under Sections 147, 148, 323, 336 I.P.C. and 3(1)(X) of SC/ST Act, pending in the court of IInd Additional District and Sessions Judge, Moradabad.

Learned counsel for applicants submitted that on account of dispute in connection with casting of votes during village Pradhan Elections, the opposite party no.2 filed a complaint against the applicants, on which after investigation charge sheet and supplementary charge sheet have been filed, against which the applicants have preferred present application. Subsequently, opposite party no. 2 some how came to know that the applicants were not involved in the incident and they were innocent. In this respect, on 17.10.2011, opposite party gave an affidavit (Annexure No. SA-1 to the supplementary affidavit) stating therein that in the incident some other persons were involved and the applicants are in no way concerned with the same.

Similarly, on 03.11.2011, injured persons of the incident namely Sarvesh and Jagannath also gave their affidavits (Annexure Nos. 2 and 3 to the supplementary affidavit) stating that applicants are innocent and that they have made compromise with the applicants in the case in question. In the meantime, complainant Cheddhalal died on 27.10.2015. The counsel for applicants further submits that in view of aforesaid since the matter has been compromised between the parties, the charge sheet and supplementary charge sheet be quashed.

Learned A.G.A. has opposed the prayer made on behalf of applicants but accepted that complainant/opposite party no. 2 and the injured persons of the case have submitted their affidavits stating therein that the applicants were not involved in the incident.

Having heard learned counsel for the parties and on perusal of record it is evident that this Court on 29.08.2016, passed following order :

"The report of the Chief Judicial Magistrate, Moradabad has been received in compliance of the order dated 17.5.2016 that the complainant-opposite party no.2 Chheda Lal Jatav has left for heavenly abode on 27.10.2015. The inquiry was done as per circular of this Court.

It is submitted by the learned counsel for the applicants that in his life time the complainant-opposite party no.2 Chheda Lal Jatav had entered into an amicable settlement with the applicants that he does not want to prosecute the applicants and in this regard he has also filed an affidavit. The said affidavit has been brought on record by filing a supplementary affidavit by the learned counsel for the applicants.

In view of the facts and circumstances, II Additional Sessions Judge, Moradabad is directed to verify from the heirs of the complainant-opposite party no.2 Chheda Lal Jatav whether any such agreement deed was executed by him to not to prosecute the applicants in the presence of all the witnesses before whom the said compromise has been arrived at between the parties, within three weeks.

This order along with the copy of the affidavit of the opposite party no.2 which has been annexed as Annexure-1 to the supplementary affidavit be sent to the II Additional Sessions Judge, Moradabad for necessary compliance as stated above.

Let the case be listed in the week commencing 26.9.2016."

In compliance of above order, report of District Judge, Moradabad dated 25.01.2017 is available on record. Alongwith the report an affidavit of complainant-opposite party no. 2 Chheda Lal Jatav (since deceased) is annexed. Perusal of report reveals that in Case Crime No. 255 of 1995 the complainant-opposite party no. 2 Chheda Lal Jatav and applicants have entered into compromise and no dispute between the parties remains. This fact has been verified by the legal heirs of opposite party no. 2 (since deceased).

In view of the fact that parties have entered into compromise and do not want to pursue the case any further, as stated by the complainant-opposite party no. 2 and the injured persons in their affidavits, which have been verified by the court below and the matter is purely of personal nature which has been mutually settled between the parties in view of the affidavits filed by the complainant and other injured persons, no useful purpose would be served in proceeding with the matter further. Thus, in view of the well settled principle of law as laid down by this Hon'ble Apex Court in **B.S.Joshi Vs. State of Haryana, 2003 (4) SCC 675** and **Nikhil Merchant Vs. Central Bureau of Investigation and another, JT 2008 (9) SC 192**, the charge sheet dated 30.06.1995 and supplementary charge sheet dated 14.07.1995 as well as proceedings of S.S.T. No. 171/95 - State Vs. Azizul Hasan and Others, under Sections 147, 148, 323, 336 I.P.C. and 3(1)(X) of SC/ST Act, pending in the court of IInd Additional District and Sessions Judge, Moradabad are hereby quashed.

The present application is accordingly allowed.

Order Date :- 30.8.2017

A. Verma/Israr