

Court No. - 27

Case :- APPLICATION U/S 482 No. - 10634 of 2023

Applicant :- Riddesh Singh And Another

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

Counsel for Applicant :- Prashant Singh Gaur, Arvind Kumar Srivastava

Counsel for Opposite Party :- G.A.

Hon'ble Brij Raj Singh, J.

1. Heard learned counsel for the applicant, Sri Sushanshu Mishra who has filed power on behalf of O.P. No.2, Ms. Nusrat Jahan, learned AGA and perused record.

2. Present petition has been filed with prayer to quash the impugned summoning order dated 17.11.2021 passed by Civil Judge (J.D.), FTC (CAW), Unnao and the entire proceedings of Complain Case No.06 of 2020 (Sukriti Singh. Vs. Riddesh Singh and others), under Section 323, 406, 498-A, 504 and 506 IPC and Section 3/4 of D.P. Act, PS Kotwali Unnao district Unnao pending in the Court of Civil Judge (J.D.), FTC (CAW), Unnao on the basis of compromise dated 28.4.2023 entered into between the parties by which the applicants and O.P. No.2 have settled their matrimonial dispute.

3. Learned counsel for the applicants has submitted that under Section 13-B of Hindu Marriage Act, both parties have entered into compromise deed before the Family Court, Unnao, as contained in Annexure No.3 to the application, for which complaint was filed by the O.P. No.2 earlier. Learned counsel for the applicant has further submitted that since amicable settlement has taken place, therefore, the proceedings are liable to be quashed.

4. On the other hand, learned counsel for the O.P. No.2 has also given statement that compromise has been entered into between the parties and he has no objection in case the case is decided in terms of the compromise. Learned counsel for the O.P. No.2 has also admitted that the O.P. No.2, has received an amount of Rs.5,50,000/- on 28.4.2023 and Rs.5,50,000/- on 8.9.2023.

5. This Court is not unmindful of the following judgements of Apex Court:

i. B.S. Joshi and others Vs. State of Haryana and another (2003)4 SCC 675

ii. Nikhil Merchant Vs. Central Bureau of Investigation[2008]9 SCC 677]

iii. Manoj Sharma Vs. State and others (2008) 16 SCC 1,

iv. Gian Singh Vs. State of Punjab (2012) 10 SCC 303

v. Narindra Singh and others Vs. State of Punjab (2014) 6 SCC 466.

vi. State of M.P. V/s Laxmi Narayan & Ors. [AIR 2019 SC 1296]

6. In the aforesaid judgments, Apex Court has categorically held that compromise can be made between the parties even in respect of certain cognizable and non compoundable offences. Reference may also be made to the decision given by this Court in **Shaifullah and others Vs. State of U.P. And another [2013 (83) ACC 278]**. in which the law expounded by the Apex court in some of the judgments noted above has been explained in detail.

7. Recently Apex court in **Parbatbhai Aahir @ Parbatbhai Bhimsinhbhai Karmur And Others Vs. State of Gujarat And Another (2017) 9 SCC 641** has laid down the following guideline with regard to quashing of criminal proceedings as well compromise in criminal proceedings in paragraphs 16 to 16.10, which read as under:

"16. The broad principles which emerge from the precedents on the subject, may be summarised in the following propositions;

16.1. 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 recognises and preserves powers which inhere in the High Court;

16.2. 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.

16.3. 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;

16.4. 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;

16.5. 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;

16.6. 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;

16.7. 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;

16.8. Criminal cases involving offences which arise 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;

16.9. 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

16.10. There is yet an exception to the principle set out in propositions 16.8 and 16.9 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."

8. Considering the fact that the compromise between the parties has been entered into which is on record, learned counsel for the O.P. No.2 having no objection to this compromise as well as looking into the facts and circumstances of the case, as noted hereinabove as also the submissions made by the counsel for the parties, the court is of the considered opinion that no useful purpose would be served by prolonging the proceedings of above mentioned case.

9. Since both the parties have amicably entered into compromise and settled their disputes and learned counsel for the O.P. No.2 has no objection, the impugned summoning order dated 17.11.2021 passed by Civil Judge (J.D.), FTC (CAW), Unnao and the entire proceedings of Complain Case No.06 of 2020

(Sukriti Singh. Vs. Riddesh Singh and others), under Section 323, 406, 498-A, 504 and 506 IPC and Section 3/4 of D.P. Act, PS Kotwali Unnao district Unnao, pending in the Court of Civil Judge (J.D.), FTC (CAW), Unnao., are hereby quashed.

10. The application is, accordingly, allowed. There shall be no order as to costs.

Order Date :- 31.10.2023

Rajneesh JR-PS)