

Court No. - 89

Case :- APPLICATION U/S 482 No. - 1880 of 2021

Applicant :- Vijay Pal And 5 Others

Opposite Party :- State of U.P. and Another

Counsel for Applicant :- Ved Prakash Pandey

Counsel for Opposite Party :- G.A.

Hon'ble Rajeev Misra,J.

Heard Mr. Ved Prakash Pandey, learned counsel for applicants and learned A.G.A. for State.

This application under Section 482 Cr.P.C. has been filed challenging order dated 26.02.2020 passed by Additional Sessions Judge, Court No.9, Shahjahanpur in S.T. No.575 of 2014, (State Vs. Vijay Pal and Others), under Sections- 147, 323, 504, 506, 308 I.P.C., P.S.- Roza, District- Shahjahanpur, as well as entire proceedings of above-mentioned sessions trial on the ground that compromise has been entered into between the parties.

Record shows that in respect of an incident alleged to have been occurred on 18.03.2014, a prompt F.I.R. dated 18.03.2014 was lodged by informant/opposite party no.2, Mithun and was registered as Case Crime No.61 of 2014, under Sections- 147, 323, 504, 506 I.P.C. In the aforesaid F.I.R., six persons, namely, Vijay Pal, Vishram, Ram Ladaite, Sukhendra, Munna and Vilgaam have been nominated as named accused.

After registration of above-mentioned F.I.R., police proceeded with statutory investigation of above-mentioned case crime number in terms of Chapter-XII Cr.P.C. After completion of investigation, Investigating Officer submitted a charge-sheet against named accused under Sections 147, 323, 504, 506, 325 and 308 I.P.C. Thereafter, cognizance was taken by court concerned. Subsequently, case was committed to court of sessions. Accordingly, S.T. No.575 of 2014, (State Vs. Vijay Pal and Others), under Sections- 147, 323, 504, 506, 308 I.P.C., P.S.- Roza, District- Shahjahanpur came to be registered, wherein applicants are alleged to have been summoned.

During pendency of above-mentioned case before Court below, parties amicably settled their dispute. On the basis of settlement so arrived at between parties, a compromise deed was drawn which has been duly verified by a notary. Photocopy of same is on record as Annexure-4 to the affidavit. On the basis of compromise entered into between parties, an application dated

09.01.2020 was filed by accused, i.e., applicants herein before court below that on the evidence on record no offence under Section 308 I.P.C. is made out against applicants, therefore same be dropped and the offence under Sections 323, 325, 504, 506 I.P.C. being compoundable be compounded. However, court below by means of order dated 26.02.2020 has rejected application dated 09.01.2020. Consequently, applicants, who are charge-sheeted accused have now approached this Court by means of present application under Section 482 Cr.P.C. seeking quashing of entire proceedings of above-mentioned Sessions Trial on the ground of compromise.

On the aforesaid premise, it is urged by learned counsel for applicants that dispute between parties is a purely private dispute. Once parties have entered into a compromise, no useful purpose shall be served by prolonging proceedings of above mentioned sessions trial. Interest of justice shall better be served in case, entire proceedings of above mentioned sessions trial are quashed by this Court itself in exercise of jurisdiction under Section 482 Cr. P. C, instead of relegating the parties to Court below. The trial would only entail loss of judicial time in a futile pursuit when torrents of litigation drown the courts with an unimaginable flood of dockets.

Learned counsel for opposite party no.2 has supported the present application.

It is contended by learned counsel for informant/opposite party-2 that once informant himself has compromised with accused-applicants, then in that eventuality, he cannot have any objection, in case entire proceedings of above-mentioned sessions trial are quashed by this Court. He has further invited attention of Court to the compromise deed, which is on record as Annexure-4 to the affidavit and also the application dated 09.01.2020 filed by accused before court below, whereby it has been prayed that on the evidence from record, no offence under Section 308 I.P.C. is made out and therefore the same may be dropped and offence under Section 323, 325, 504, 506 I.P.C. be compounded. It may be noted that application dated 09.01.2020 is on record as Annexure-2 to the affidavit.

Per contra, learned A.G.A. has opposed present application. He contends that charge sheet has been submitted against applicants under sections 147, 323, 504, 506, 308 IPC. In the incident giving rise to present criminal proceedings injured Sanjay, Roshan, Ajai, Anil, Mahendra and Smt. Ram Devi sustained injuries. Copies of injury report of aforesaid injured are on record as annexure SA-1 to the supplementary affidavit. According to learned A.G.A. perusal of same goes to show that

most of the injured have sustained injuries on skull and some of the injuries are bone deep. He therefore contends that in view of above, the dispute between the parties cannot be said to be a private dispute. Criminality committed by accused is a crime against society. He further contends that court below vide order dated 26.02.2020 has already rejected the application dated 09.01.2020. However, on the material on record, no case for quashing of order dated 26.02.2020 is made out. It is thus urged that proceedings of above-mentioned criminal case cannot come to an end on account of compromise between parties. To buttress his submission, he has relied upon paragraph 15.4 of judgement in **State of M.P. Vs. Laxmi Narayan and Others, (2019) 5 SCC 688**. For ready reference same is reproduced herein under:

"15.4 Offences under Section 307 IPC and the Arms Act etc. would fall in the category of heinous and serious offences and therefore are to be treated as crime against the society and not against the individual alone, and therefore, the criminal proceedings for the offence under Section 307 IPC and/or the Arms Act etc. which have a serious impact on the society cannot be quashed in exercise of powers under Section 482 of the Code, on the ground that the parties have resolved their entire dispute amongst themselves. However, the High Court would not rest its decision merely because there is a mention of Section 307 IPC in the FIR or the charge is framed under this provision. It would be open to the High Court to examine as to whether incorporation of Section 307 IPC is there for the sake of it or the prosecution has collected sufficient evidence, which if proved, would lead to framing the charge under Section 307 IPC. For this purpose, it would be open to the High Court to go by the nature of injury sustained, whether such injury is inflicted on the vital/delegate parts of the body, nature of weapons used etc. However, such an exercise by the High Court would be permissible only after the evidence is collected after investigation and the charge sheet is filed/charge is framed and/or during the trial. Such exercise is not permissible when the matter is still under investigation. Therefore, the ultimate conclusion in paragraphs 29.6 and 29.7 of the decision of this Court in the case of Narinder Singh (supra) should be read harmoniously and to be read as a whole and in the circumstances stated hereinabove;"

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

- 1. B.S. Joshi and others Vs. State of Haryana and another (2003)4 SCC 675**
- 2. Nikhil Merchant Vs. Central Bureau of Investigation[2008]9 SCC 677]**
- 3. Manoj Sharma Vs. State and others (2008) 16 SCC 1**
- 4. Shiji @ Pappu and Others VS. Radhika and Another, 2011 (10) SCC 705**

5. **Gian Singh Vs. State of Punjab (2012) 10 SCC 303**
6. **K. Srinivas Rao Vs. D.A Deepa, (2013) 5 SCC226**
7. **Narindra Singh and others Vs. State of Punjab (2014) 6 SCC 466**
8. **Yogendra Yadav and Ors. Vs. State of Jharkhand and another 2014 (9) SCC 653**
9. **C.B.I. Vs. Maninder Singh (2016) 1 SCC 389**
10. **C.B.I. Vs. Sadhu Ram Singla and Others, (2017) 5 SCC 350**
11. **Parbatbhai Aahir @ Parbatbhai Bhimsinhbhai Karmur and Others Vs. State of Gujarat and another, 2017 (9) SCC 641**
12. **Anita Maria Dias and Ors. Vs. State of Maharashtra and Others, (2018) 3 SCC 290**
13. **State of M.P. VS. Dhruv Gurjar and Another, (2019) 5 SCC 570**
14. **State of M.P. V/s Laxmi Narayan & Ors., 2019 (5) SCC 688**
15. **Rampal Vs. State of Haryana, AIR online 2019 SC 1716**
16. **Arun Singh and Others VS. State of U.P. and Another (2020) 3 SCC 736**

wherein the Apex Court has categorically held that compromise can be made between the parties even in respect of certain cognizable and non compoundable offences. However, Apex Court in **State of M.P. Vs. Laxmi Narayan (Supra)** has observed that no compromise can be made in respect of offences against society as they are not private in nature. Similarly in **Ram Pal Vs. State of Haryana (Supra)** it has been held that no compromise can be made in cases relating to rape and sexual assault. 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 aforesaid cases has been explained in detail.

Apex court in **Parbatbhai Aahir @ Parbatbhai Bhimsinhbhai Karmur (Supra)** has laid down the following guidelines with regard to quashing of criminal proceedings as well compromise in criminal proceedings in paragraphs 16 to 16.10 of the judgement, 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."

Considering the facts and circumstances of case, as noted herein above, submissions made by counsel for parties and further taking into consideration the injuries sustained by injured, namely, Sanjay, Roshan, Ajai, Anil, Mahendra and Smt. Ram Devi, some of which cannot be said to be simple, this court is of considered opinion that no illegality has been committed by court below in rejecting application dated 09.01.2020 filed by applicants, vide order dated 26.02.2020. As such, order dated 26.02.2020 cannot be quashed. Furthermore, on account of above, parties cannot be permitted to compromise in present case as dispute between parties is not a private dispute but a crime against society.

In view of above, no occasion arises before this Court to quash the proceedings of S.T. No.575 of 2014, (State Vs. Vijay Pal and Others), under Sections- 147, 323, 504, 506, 308 I.P.C., P.S.- Roza, District- Shahjahanpur, pending in the court of Additional Sessions Judge, Court No.9, Shahjahanpur.

Consequently, the application fails and is liable to be dismissed.

It is accordingly, dismissed.

Order Date :- 22.3.2021

Saif