

## A.F.R.

### Court No. - 11

**Case :-** U/S 482/378/407 No. - 4035 of 2021

**Applicant :-** Mata Bheekh Singh & Others

**Opposite Party :-** State Of U.P. & Another

**Counsel for Applicant :-** Virendra Singh

**Counsel for Opposite Party :-** G.A.

**Hon'ble Mrs. Sangeeta Chandra,J.**

**(Oral)**

**(1)** This petition has been filed with the following main prayer:-

*"(1) For the facts, reasons and circumstances as stated in the accompanying affidavit, it is most respectfully prayed that this Hon'ble Court may kindly be pleased to quash the proceedings of criminal case at Trial No.292/2009 arising out of Case Crime No.335A/2007, under Sections 307/504/506 IPC, Police Station Sareni, District Rae Bareli, pending before the learned Additional Sessions Judge, Court No.6, Rae Bareli, on the basis of settlement/compromise executed in between the parties, as contained in Annexure No.7 in the interest of justice."*

**(2)** It has been submitted by the learned counsel for the petitioners that the opposite party no.2 had lodged an F.I.R. on 23.08.2007. The petitioners had also lodged an F.I.R. registered as Case Crime No.335/2007. A compromise has occurred between the parties. The true copy of the compromise has been filed through supplementary affidavit which has been taken on record today.

**(3)** Shri Dhirendra Singh, Enrollment No.9643/03, Advocate Roll No.B/D0240/2012, has filed his Power on behalf of the opposite party no.2. He says that indeed a compromise has taken place between the parties.

**(4)** Ms. Sikha Sinha, learned AGA has pointed out that the trial has been going on since 2009 and is nearing completion. She has also pointed out the injury report annexed as annexure-02 which has mentioned at least six incised wounds on the face of the victim, and says that in such cases under Section 307 of the IPC, the inherent

powers of quashing prosecution under Section 482 should not ordinarily be exercised.

**(5)** Sri Dharendra Pratap Singh has brought to the notice of this Court a judgement rendered by the Division Bench of the Hon'ble Supreme Court on 29.09.2021 in Criminal Appeal No. 1489 of 2012 (***Ram Gopal & Another vs. State of Madhya Pradesh***) and Criminal Appeal No. 1488 of 2012 (***Krishnapa & Others vs. State of Karnataka***) where the Division Bench has observed, after considering the larger Bench decision of the Hon'ble Supreme Court in *Gyan Singh vs. State of Punjab* (2012) 10 SCC 303, and subsequent decision that the plenary jurisdiction of the superior judiciary including the High Courts to impart complete justice, under Section 482 Cr.P.C. is not inhibited by any statutory limits as imposed under Section 320 of the Cr.P.C. The extraordinary power bestowed upon the High Court under Section 482 Cr.P.C. can be invoked beyond the metes and bounds of Section 320 Cr.P.C. Nonetheless, such powers being of wide amplitude, ought to be exercised carefully and in the context of quashing criminal proceedings bearing in mind:-(i) Nature and effect of the offence on the conscience of the society; (ii) Seriousness of the injury, if any; (iii) Voluntary nature of compromise between the accused and the victim; & (iv) Conduct of the accused persons, prior to and after the occurrence of the purported offence and/or other relevant considerations.

**(6)** The Supreme Court had allowed the Appeals by observing that the offences involved in the appeal could be categorized as purely personal and having no over tones of offence against the State and the nature of injuries were such as not to appear to exhibit any mental depravity for commission of an offence of such a serious nature that its quashing would over-ride public interest. The Court exercised its power under Article 142 saying that it is immaterial that the trial against the appellant has been concluded and there is an appeal against conviction. The appeal should be dismissed because the parties on their own settlement without any coercion or compulsion, willingly and voluntarily had buried their differences and wished to give a quietus to their dispute. The Court also looked into the fact that the occurrences in both the cases took place long time ago and there was nothing on record that the appellants and the complainants being residents of the same villages had thereafter breached the peace. Therefore, the criminal justice system would remain unaffected on acceptance of amicable settlement

between the parties and resultant acquittal of the appellants.

**(7)** No doubt, the Hon'ble Supreme Court has made such observations under Article 142 of the Constitution and has quashed a prosecution against the appellants not in the exercise of its power of quashing under Section 482 of the Cr.P.C. but under Article 142 which is designed to do complete justice between the parties. However, the observations made by the Hon'ble Supreme Court seem appropriate in this case also. It has been submitted by the counsel for the petitioners and also by the opposite party no.2 that no untoward incident has occurred after the alleged assault which took place long time ago and in the heat of the moment under grave provocation.

**(8)** Learned trial court be sent papers relating to this Application U/s 482 forthwith by the Registry. The compromise which has been filed in the original through supplementary affidavit by the counsel for the petitioners shall be returned to him.

**(9)** Accordingly, the Application U/s 482 stands **disposed of**.

**(10)** Learned trial court shall verify the compromise occurring between the parties and pass appropriate orders thereon. It shall be open for the petitioners to approach this Court again by filing the appropriate petition for quashing of the proceedings thereafter. Till appropriate orders are passed by the concerned trial court verifying the compromise occurring between the parties, no coercive steps be taken against the petitioners.

**Order Date :- 22.10.2021**

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