

A.F.R.

Court No. - 64

Case :- APPLICATION U/S 482 No. - 650 of 2022

Applicant :- Ram Pravesh And 3 Other

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

Counsel for Applicant :- Manoj Kumar Srivastava

Counsel for Opposite Party :- G.A.,Jeetendra Kumar Sharma

Hon'ble Chandra Kumar Rai,J.

Heard Mr. Monoj Kumar Srivastava, learned counsel for the applicant, Mr. Jeetendra Kumar Sharma, learned counsel for the opposite party No.2 and learned A.G.A. for the State.

The present Application U/S 482 Cr.P.C. has been filed with a prayer to quash the charge sheet dated 07.04.2021 filed in Case No.9956 of 2021 arising out of Charge sheet No.01 dated 07.04.2021 filed in Case Crime No.0018 of 2021, under Sections 498-A and 323 of IPC and 3/4 of D.P. Act, Police Station-Mahila Thana, District-Kannauj, as well as stay the proceeding in pursuance of cognizance order dated 02.08.2021 in view of the compromise dated 16.03.2021 executed between both the parties.

The brief facts of the case are opposite party No.2 (wife) had lodged an F.I.R. on 02.02.2021 under Sections 498-A, 323 IPC and Section 3/4 of D.P. Act against the applicants (Husband and his family members) alleging that marriage of applicant and opposite party No.2 was solemnized about 6 years before. From the wedlock of applicant No.1 and opposite party No.2, three children were born, who are living with opposite party No.2. The applicants have not satisfied to the dowry and they started beating and harassing her for fulfillment of additional demand of dowry. On 18.01.2021 on the refusal of demand of dowry by the opposite party No.2, applicant beaten her due to

which opposite party No.2 has received injuries on her body. The investigating officer after investigation has submitted charge sheet No.1 dated 07.04.2021 before the Court and the cognizance was accordingly taken on 02.08.2021. In the meanwhile, due to intervention of the relatives and well wishers of the family, opposite party No.2 and applicants have entered into compromise on 16.03.2021 outside the Court and started to live together as husband and wife along with their children having no grievance to each other. The applicants have filed present 482 Cr.P.C. application to quash the charge sheet dated 07.04.2021, on the basis of compromise dated 16.03.2021 on 16.02.2022, this Court passed the following order:

"Heard learned counsel for the applicants, Sri Jeetendra Kumar Sharma, learned counsel for the O.P. No. 2 as well as learned A.G.A. for the State and perused the record.

Learned counsel for the applicants submits that the parties have entered into a compromise as a subject matter of the dispute was matrimonial. The terms and conditions have been entered into a compromise which is Annexure No. 3.

Learned counsel for the O.P. No. 2 has acknowledged the aforesaid facts.

The parties shall appear before the trial court and file compromise within four weeks. Upon the said compromise being filed before the trial court, it shall after due identification, verify the compromise. The trial Judge shall forward to this Court a duly verified copy of the compromise entered into between the parties along with a copy of his order verifying the compromise which shall be before the next date fixed.

List on 30.03.2022 as fresh.

Till the next date of listing, no coercive steps shall be taken against the applicants in Case No. 9956 of 2021 (Case Crime No. 0018 of 2021), under Sections 498A, 323 IPC and 3/4 D.P. Act, P.S. Mahila Thana, District Kannauj.

Office will ensure the compliance of the aforesaid order and will transmit the copy of the compromise along with copy of the order to the trial court through the concerned Session Judge within three days"

In compliance of the order dated 16.2.2022 parties have filed compromise application in the courts below, which has been

duly verified and sent to this Court along with verification report dated 30.03.2022, the same is on the record of the case.

Learned counsel for the applicant submitted that proceeding of Criminal case under Sections 498-A, 323 IPC and Section 34 of D.P. Act be quashed as parties to dispute have entered into compromise which have been verified also by courts below. He further submitted that applicant No.1 and opposite party No.2 along with their children are living together as such no useful purpose will be served to drag present proceeding further he further placed reliance upon the judgment of this court reported in 2022 Law Suit (Alld) 104 Dr. Mohd. Ibrahim and others vs. State of U.P. and others, **Gian Singh vs.State of Punjab and another (2012) 10 Supreme Court Cases 303, Narinder Singh and others Vs.State of Punjab and other (2014) 6 Supreme court cases 466 and State of Madhya Pradesh vs. Laxmi Narayan and others (2019) 5 Supreme court cases 688.**

Learned Counsel for the opposite party No.2 has also filed his vakalatnama and compromise affidavit dated 21.12.2021 stating that opposite party No.2 and applicant No.1 are living together having no grievance to each other as such she does not want to press the proceedings of criminal case against the applicants.

Considered the submission of learned counsel for the parties.

On the point of compromise between the parties in criminal cases following case law will be relevant:

(i) Gian Singh vs.State of Punjab and another (2012) 10 Supreme Court Cases 303

(ii) Narinder Singh and others Vs.State of Punjab and other (2014) 6 Supreme court cases 466

(iii) State of Madhya Pradesh vs. Laxmi Narayan and others (2019) 5 Supreme court cases 688.

In the case of Gian Singh (Supra) Hon'ble Supreme Court has held in para No.61 and 62 as follows:

"61. The position that emerges from the above discussion can be summarized thus: the power of the High Court in quashing a criminal proceeding or FIR or complaint in exercise of its inherent jurisdiction is distinct and different from the power given to a criminal court for compounding the offences under Section 320 of the Code. Inherent power is of wide plenitude with no statutory limitation but it has to be exercised in accord with the guideline engrafted in such power viz.: (i) to secure the ends of justice, or (ii) to prevent abuse of the process of any court. In what cases power to quash the criminal proceeding or complaint or FIR may be exercised where the offender and the victim have settled their dispute would depend on the facts and circumstances of each case and no category can be prescribed. However, before exercise of such power, the High Court must have due regard to the nature and gravity of the crime. Heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. cannot be fittingly quashed even though the victim or victim's family and the offender have settled the dispute. Such offences are not private in nature and have a serious impact on society. Similarly, any compromise between thee a victim and the offender in relation to the offences under special statutes like b the Prevention of Corruption Act or the offences committed by public servants while working in that capacity, etc.; cannot provide for any basis for quashing criminal proceedings involving such offences. But the criminal cases having overwhelmingly and predominatingly civil flavour stand on a different footing for the purposes of quashing, particularly the offences arising from commercial, financial, mercantile, civil, partnership or such like transactions or the offences arising out of matrimony relating to dowry, etc. or the family disputes where the wrong is basically private or personal in nature and the parties have resolved their entire dispute. In this category of cases, the High Court may quash the criminal proceedings if in its view, because of the compromise between the offender and the victim, the possibility of conviction is remote and bleak and continuation of the criminal case would put the accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal case despite full and complete settlement and compromise with the victim. In other words, the High Court must consider whether it would be unfair or contrary to the interest of justice to continue with the criminal proceeding or continuation of the criminal proceeding would tantamount to abuse of process of law despite settlement and compromise between the victim and the wrongdoer and whether to secure the ends of justice, it is appropriate that the criminal case is put to an end and if the answer to the above question(s) is in the affirmative, the High Court shall be well within its jurisdiction to quash the criminal proceeding.

62. In view of the above, it cannot be said that B.S. Joshi ,Nikhil Merchants and Manoj Sharma were not correctly decided. We answer the reference accordingly. Let these matters be now listed

before the Bench(es) Concerned."

In the Case of **Narinder Singh (supra)** Hon'ble Supreme Court has held as follows in para No.29:

29. In view of the aforesaid discussion, we sum up and lay down the following principles by which the High Court would be guided in giving adequate treatment to the settlement between the parties and exercising its power under Section 482 of the Code while accepting the settlement and quashing the proceedings or refusing to accept the settlement with direction to continue with the criminal proceedings:

29.1. Power conferred under Section 482 of the Code is to be distinguished from the power which lies in the Court to compound the offences under Section 320 of the Code. No doubt, under Section 482 of the Code, the High Court has inherent power to quash the criminal proceedings even in those cases which are not compoundable, where the parties have settled the matter between themselves. However, this power is to be exercised sparingly and with caution.

29.2. When the parties have reached the settlement and on that basis petition for quashing the criminal proceedings is filed, the guiding factor in a such cases would be to secure: (i) ends of justice, or (ii) to prevent abuse of the process of any court. While exercising the power the High Court is to form an opinion on either of the aforesaid two objectives.

29.3. Such a power is not to be exercised in those prosecutions which involve heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. Such offences are not private in nature and have a serious impact on society. Similarly, for the offences alleged to have been committed under special statute like the Prevention of Corruption Act or the offences committed by public servants while working in that capacity are not to be quashed merely on the basis of compromise between the victim and the offender.

29.4. On the other hand, those criminal cases having overwhelmingly and predominantly civil character, particularly those arising out of commercial transactions or arising out of matrimonial relationship or family disputes should be quashed when the parties have resolved their entire disputes among themselves.

29.5. While exercising its powers, the High Court is to examine as to whether the possibility of conviction is remote and bleak and continuation of criminal cases would put the accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal cases.

29.6. Offences under Section 307 IPC would fall in the category of heinous and serious offences and therefore are to be generally treated as crime against the society and not against the individual alone. 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 proving 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/delicate parts of the body, nature of weapons used, etc. Medical report in respect of injuries suffered by the victim can generally be the guiding factor. On the basis of this prima facie analysis, the High Court can examine as to whether there is a strong possibility of conviction or the chances of conviction are remote and bleak. In the former case it can refuse to accept the Settlement and quash the criminal proceedings whereas in the latter case it would be permissible for the High Court to accept the plea compounding the offence based on complete settlement between the parties. At this stage, the Court can also be swayed by the fact that the settlement between the parties is going to result in harmony between them which may improve their future relationship.

29.7. While deciding whether to exercise its power under Section 482 of the Code or not, timings of settlement play a crucial role. Those cases where the settlement is arrived at immediately after the alleged commission of offence and the matter is still under investigation, the High Court may be liberal in accepting the settlement to quash the criminal proceedings/investigation. It is because of the reason that at this stage the investigation is still on and even the charge-sheet has not been filed. Likewise, those cases where the charge is framed but the evidence is yet to start or the evidence is still at infancy stage, the High Court can show benevolence in exercising its powers favourably, but after prima facie assessment of the circumstances/material mentioned above. On the other hand, where the prosecution evidence is almost complete or after the conclusion of the evidence the matter is at the stage of argument, normally the High Court should refrain from exercising its power under Section 482 of the Code, as in such cases the trial court would be in a position to decide the case finally on merits and to come to a conclusion as to whether the offence under Section 307 IPC is committed or not. Similarly, in those cases where the conviction is already recorded by the trial court and the matter is at the appellate stage before the High Court, mere compromise between the parties would not be a ground to accept the same resulting in acquittal of the offender who has already been convicted by the trial court. Here charge is proved under Section 307 IPC and conviction is already recorded of a heinous crime and, therefore, there is no question of sparing a convict found guilty of such a crime."

In the case of State of **Madhya Pradesh Vs.Laxmi Narayan (Supra)** held as follows in para No. 15.1 to 15.4:

"15.1 That the power conferred under [Section 482](#) of the Code to quash the criminal proceedings for the non-compoundable offences under [Section 320](#) of the Code can be exercised having overwhelmingly and predominantly the civil character, particularly those arising out of commercial transactions or arising out of matrimonial relationship or family disputes and when the parties have resolved the entire dispute amongst themselves;

15.2. Such power is not to be exercised in those prosecutions which involved heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. Such offences are not private in nature and have a serious impact on society;

15.3 Similarly, such power is not to be exercised for the offences under the special statutes like [Prevention of Corruption Act](#) or the offences committed by public servants while working in that capacity are not to be quashed merely on the basis of compromise between the victim and the offender;

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"

Learned Counsel for both the parties are present before this Court and submitted that the charge sheet including the

proceedings of the case be quashed on the basis of compromise entered into the parties.

The learned A.G.A. has no objection as parties to the dispute relating to matrimonial matter have entered into compromise.

Considering the facts of the present case as well as the principle of law laid down by Hon'ble Supreme Court as mentioned above, matrimonial dispute between the husband and wife should be quashed when the parties have resolved their entire dispute amongst themselves through compromise duly filed and verified by the Court. There is another aspect of the case that F.I.R. has been lodged under Sections 498-A, 323 IPC and 3/4 D.P. Act, which will come under category specified in para No.29.4 laid down by Hon'ble Apex Court in **Narinder Singh (supra)** and in category specified in para No.15.1 laid down by Apex Court in **State of Madhya Pradesh vs. Laxmi Narayan and others (supra)** regarding which proceedings relating to matrimonial dispute can be quashed in exercise of power under Section-482 Cr.P.C.

In view of the discussion made above, it would be unnecessary to drag these proceedings, as continuation of the criminal proceeding despite settlement and compromise would amount to abuse of process of law accordingly, the instant application under Section 482 Cr.P.C. is allowed on the basis of compromise dated 16.03.2022 as verified on 30.03.2022. The proceeding of cognizance order dated 02.08.2021 and charge sheet No.1 dated 07.04.2021 filed in Case No.9956 of 2021 arising out of Case Crime No.0018 of 2021, under Sections 498-A, 323 of IPC and 3/4 of D.P. Act, Police Station-Mahila Thana, District-Kannauj including the entire proceedings of the case are hereby quashed. No order as to costs.

Order Date :- 2.6.2022/PS