

Court No. - 12

Case :- APPLICATION U/S 482 No. - 3623 of 2023

Applicant :- Santosh Rajbhar And 5 Others

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

Counsel for Applicant :- Sajjad Husain, Tauqueer Alam

Counsel for Opposite Party :- G.A., Ram Singh

Hon'ble Alok Mathur, J.

1. No one has appeared for either of the parties except learned A.G.A. who is present for the State.

2. This 482 Cr.P.C. petition has been filed with a payer to quash the entire proceedings of complaint case No.1288 of 2022 under Sections 498A, 323, 504, 506 IPC and Section 3/4 of Dowry Prohibition Act, police station Sammanpur, District Ambedkar Nagar pending in the court of 1st Additional Civil Judge (Junior Division)/Judicial Magistrate, Ambedkar Nagar and impugned summoning order dated 13.1.2023 passed by 1st Additional Civil Judge (Junior Division)/Judicial Magistrate, Ambedkar Nagar and also to quash the revisional order dated 31.3.2023 passed by Sessions Judge, Ambedkar Nagar.

3. The contention of learned counsel for the petitioners is that this matter was sent to mediation centre of this Court vide order dated 16.05.2023 and in pursuance of said orders, both the parties have participated in mediation proceedings which was culminated into successful mediation and the parties have executed an agreement dated 23.05.2024. Copy of the same is available on record along with report of mediation. As per the settlement agreement dated 23.05.2024 executed in mediation centre, both the parties have decided to withdraw all the cases against each other.

4. The terms and conditions of the aforesaid settlement, are being quoted herein below:-

"6. The following settlement has been arrived at between the Parties hereto: -

A. That both the parties namely Santosh Rajbhar (First Party/husband) and Smt. Nirmala Devi (Second Party/wife) have mutually agreed to dissolve their marriage and to live separately in future and for the purpose of dissolution of their marriage the parties have already a petition for divorce with mutual consent U/S 13-B Hindu Marriage Act, 1955 before

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Family Court, Ambedkar Nagar on 13.12.2023. Both the parties herein undertake to appear before the concerned Court on the date(s) fixed and would make their earnest endeavour to obtain a decree of divorce in terms of this settlement at the earliest.

B. That the First Party has agreed to pay to the Second Party and the Second Party has agreed to receive from the First Party a total sum of Rs. 4,15,000/- (Rupees Four Lacs Fifteen Thousand) towards one time full and final settlement of all the claims of the Second Party against First Party including the claim for permanent alimony.

C. That the entire amount of aforementioned Rs.4,15,000/- (Four Lacs Fifteen Thousand) has been paid by the First to the Second Party through three Demand Drafts. The details of the Demand Drafts are mentioned here-under:

(I) D. d. No.007329 dated 30.09.2023 amounting to Rs.2,20,000/- (Rupees Two Lacs Twenty Thousand) drawn on HDFC Bank.

(II) D. D. No.007362 dated 12.01.2024 amounting to Rs.95,000/- (Rupees Ninety Five Thousand drawn on HDFC Bank.

(III) D. D. No.007361 dated 12.01.2024 amounting to Rs.1,00,000/- (Rupees One Lac) drawn on HDFC Bank.

D. That the parties have agreed to withdraw/not press the cases filed against each other. The details of the cases are mentioned hereunder:-

(i) Complaint Case No.1288 of 2022, under Sections 498-A, 323, 504, 506 I.P.C. & 3/4 of the Dowry Prohibition Act, PS-Sammanpur, District- Ambedkar Nagar pending before Civil Judge (Jr. Div.)/1 Ambedkar Nagar.

(ii) Misc. Case No.312 of 2022 Case No.7713 of 2022 pending before SD/FTC. Ambedkar Nagar.

(iii) Case No.54 of 2022 U/S 125 Cr.P.C. pending before Family Court, Ambedkar Nagar.

(iv) Case No.30 of 2022 U/S 12 D.V. Act pending before Civil Judge, Junior Division/F.T.C. 1 Ambedkar Nagar.

E. That the Second Party has agreed that she shall not have any objection if the Hon'ble Court decides the APPLICATION U/s 482 No.3623 of 2023 (Santosh Rajbhar Vs. State of U.P. &

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Another) summoning order dated 13.1.2023 in Complaint Case No.1288 of 2022, under Sections 498-A, 323, 504, 506 I.P.C. & 3/4 of the Dowry Prohibition Act, PS-Sammanpur, District Ambedkar Nagar in terms of this settlement agreement.

F. In addition to above mentioned case, if any other case(s) is pending between the parties, both the parties shall not have any objection if the case (s) is disposed of by the Hon'ble Court in terms of this Settlement Agreement.

G. That it is also agreed between the parties that henceforth no case will be instituted by them against each other or any of their respective family members in future in the form of criminal or civil proceedings in respect of any dispute arising out of their marriage or any matter incidental thereto.

H. That both the parties shall be bound by the terms and conditions of this Settlement in strict sense. In case of any default, the party committing the default shall be liable for playing fraud with the Court hence for contempt of the court. The Second Party has agreed that in case she fails to cooperate in the divorce proceedings, she shall be bound to return to the First Party the entire money received by her from the First Party along with interest @ 9% p.a. with effect from the date of receipt of the amount/installment(s) and till the date of its actual payment to the First Party. The First Party has agreed that in case he fails to attend and cooperate in the divorce case, the amount received by the Second Party from the First Party shall not be returned by the Second Party and the Second Party shall be at liberty to reopen her case (s) decided by the Hon'ble Court in terms of this Settlement Agreement by moving an appropriate application before competent Court/ Forum.

5. Learned counsel for the applicants thus submits that since both the parties have entered into compromise and settled their dispute amicably which was also reduced in writing, the aforesaid cases may be quashed.

6. Learned counsel for opposite party no. 2 as well as learned AGA for the State could not dispute the aforesaid fact.

7. Hon'ble Apex Court in the case of **Gian Singh Vs. State of Punjab & Another; (2012) 10 SCC 303**, in paragraph No. 61 of the judgement, observed as under:-

"The position that emerges from the above discussion can be summarised 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

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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 F.I.R may be exercised where the offender and 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 serious impact on society. Similarly, any compromise between the victim and offender in relation to the offences under special statutes like 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 pre-dominantly civil flavour stand on 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, 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 wrongdoer and whether to secure the ends of justice, it is appropriate that 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."

8. Hon'ble Apex Court in the case of **State of M.P. vs. Laxmi Narayan; (2019) 5 SCC 688**, observed as under:-

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"15.1. 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 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.

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/delicate 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 paras 29.6 and 29.7 of the decision of this Court in Narinder Singh [Narinder Singh v. State of Punjab, (2014) 6 SCC 466 : (2014) 3 SCC (Cri) 54] should be read harmoniously and to be read as a whole and in the circumstances stated hereinabove;"

9. From above noted judgements, it is clear that merely

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mentioning the section of serious offences will not refrain the court from quashing the proceeding, if on considering the material on record, offences under that section is not made out.

10. Considering the material on record, this Court finds that no serious offence is made out against the petitioners, which falls in the category of mental depravity or serious offences.

11. Considering the fact as well as on perusal of record, it appears that no heinous and serious offences of mental depravity or other offences, which may affect the society in general, are made out and both the parties have amicably settled their dispute through process of mediation before Medication and Conciliation Centre, High Court, Lucknow as well as in view of the law laid down by the Apex Court in ***Gian Singh Vs. State of Punjab & Another ; (2012) 10 SCC 303, Narinder Singh & Others vs. State of Punjab & Another (2014) 6 SCC 477, State of M.P. Vs. Laxmi Narayan, (2019) 5 SCC 688 and State of M.P. vs. Dhruv Gurjar, AIR 2017 SC 1106***, the entire proceedings of complaint case No.1288 of 2022 under Sections 498A, 323, 504, 506 IPC and Section 3/4 of Dowry Prohibition Act, police station Sammanpur, District Ambedkar Nagar pending in the court of 1st Additional Civil Judge (Junior Division)/Judicial Magistrate, Ambedkar Nagar and impugned summoning order dated 13.1.2023 passed by 1st Additional Civil Judge (Junior Division)/Judicial Magistrate, Ambedkar Nagar and also the revisional order dated 31.3.2023 passed by Sessions Judge, Ambedkar Nagar, are hereby quashed.

12. in view of the aforesaid agreement, the present petition is **allowed.**

(Alok Mathur, J.)

Order Date :- 7.5.2025
RKM.