

Court No. - 3

Case :- APPLICATION U/S 482 No. - 19739 of 2017

Applicant :- Smt. Pooja Mishra

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

Counsel for Applicant :- Prashant Kumar Singh

Counsel for Opposite Party :- G.A.

Hon'ble Ravi Nath Tilhari,J.

1. Heard Sri Prashant Kumar Singh, assisted by Sri Ajai Pratap Singh, learned counsel for the applicant, Sri L. M. Singh, learned counsel for the opposite party no.2 and learned AGA appearing for the State and perused the material brought on record.

2. This application under Section 482 of Criminal Procedure (Cr.P.C.) has been filed with prayer to quash the Charge Sheet No.144 of 2016 dated 02.09.2016 as well as entire proceeding of the Case No.51620 of 2016(State Vs. Smt. Pooja Mishra), arising out of Case Crime No.164 of 2016, under Section 309, IPC, Police Station Panki, District Kanpur Nagar, pending in the court of Additional Chief Judicial Magistrate, IInd Kanpur Nagar.

3. Briefly stated facts of the case are that the applicant was married to Deepak Mishra son of opposite party no.2-complainant, on 11.06.2015, as per the Hindu Rites and Rituals. The opposite party no.2 filed an application under Section 156(3) Cr.P.C., which was allowed on 12.04.2016, directing the police to register FIR against the applicant, and in pursuance thereof, the FIR in Case Crime No.164 of 2016, under Section 309 IPC, Police Station Panki, District Kanpur Nagar was registered on 21.04.2016. After investigation, the investigating officer submitted a charge sheet No.144 of 2016 dated

02.09.2016, for the quashing of which, alongwith the proceedings of Case No.51620 of 2016 (State Vs. Smt. Pooja Mishra), as aforesaid, the present petition under Section 482 Cr.P.C. was filed.

4. Besides the above proceedings, at the instance of the present applicant an FIR in Case Crime No.137 of 2016, under Sections 498-A, 323, 307, 504, 506, IPC and Section 3/4 D.P. Act, Police Station Panki, District Kanpur Nagar was also registered on 27.03.2016 against the present opposite party no.2 alongwith his other family members. In the said case also after investigation charge sheet was submitted, and the Magistrate took cognizance against those persons on 09.11.2016.

5. Challenging the said charge sheet, the accused therein-the present opposite party no.2 and his family members filed Criminal Misc. Application under Section 482 Cr.P.C. No.35646 of 2016 (Udai Narayan Mishra and others Vs. State of U.P. and another), in which this Court granted interim order dated 22.11.2016, that no coercive action shall be taken against those applicants.

6. Learned counsel for the applicant submits that during the pendency of the application under Section 482 Cr.P.C., the parties to the dispute, arrived at a settlement and have resolved their disputes amicably and in furtherance thereof the parties jointly filed case No.204 of 2020, under Section 13-B of the Hindu Marriage Act before the Principal Judge Family Court, Kanpur Nagar.

7. Learned counsel for the applicant further submits that in pursuance of the compromise/settlement the present applicant also filed an application supported with an affidavit seeking withdrawal of Case No.51620 of 2016, arising out of Case Crime No.164 of 2016, under Section 309 IPC, Police Station

Panki, District Kanpur Nagar, before the court concerned and the same is still pending for consideration.

8. Learned counsel for the applicant further submits that an application supported with an affidavit dated 12.02.2020 in respect of Case No.51623 of 2016, arising out of Case Crime No.137 of 2016, under Sections 498-A, 323, 307, 504, 506, IPC and Section 3/4 D.P. Act, Police Station Panki, District Kanpur Nagar, was also filed before the court below for withdrawal of the said case.

9. The husband of the present applicant, namely Deepak Mishra, in view of the compromise, filed Criminal Misc. Application No.10101 of 2020 (Deepak Mishra Vs. State of U.P. and others), before this Court in which by order dated 16.06.2020, the court below was directed to get the compromise verified, in Case No.51623 of 2016, arising out of Case Crime No.137 of 2016, as aforesaid, and after the report of verification, received from the Chief Judicial Magistrate concerned, the proceedings of Case No.51623 of 2016, arising out of Case Crime No.137 of 2016, were quashed by this Court by order dated 31.08.2020.

10. Learned counsel for the applicant submits that in view of the compromise/settlement between the parties and the same also having been acted upon in as much as on the basis thereof, case for divorce by the parties concerned having been filed and the proceedings of Case No.51623 of 2016 filed by the present applicant against the opposite party no.2 and his family members having been quashed by this Court in Criminal Misc. Application No.10101 of 2020, after verification of the compromise from the court below concerned, the proceedings of Case No.51620 of 2016, arising out of Case Crime No.164 of 2016, against the applicant, at the instance of opposite party

no.2 also deserves to be quashed and the present 482 Cr.P.C. petition deserves to be allowed.

11. A copy of the order dated 31.08.2020 passed by this Court in Application under Section 482 Cr.P.C. No.10101 of 2020, has been brought on record by way of Criminal Misc. Urgency Application No.3 of 2020, alongwith copy of the joint applicant filed by the present applicant and the opposite party no.2 before the court concerned in Case No.51620 of 2016. Copy of the petition for divorce by mutual consent has also been brought on record.

12. Learned counsel for the opposite party no.2 does not dispute the aforesaid facts and has also submitted that in view of the subsequent development and the compromise between the parties, the present application under Section 482 Cr.P.C. may also be allowed, to which he has no objection.

13. Learned AGA appearing for the State has also not disputed the aforesaid facts.

14. I have considered the submissions advanced by learned counsel for the parties and perused the material brought on record.

15. There is no dispute that, the dispute between the parties was predominantly a matrimonial dispute. Both the sides lodged FIR against each other side, in which the respective charge sheet were filed. There is also no dispute that during pendency of the case, the parties have arrived at a settlement/compromise and thereby have amicably resolved their matrimonial dispute, and in furtherance thereof, case for dissolution of marriage by a decree of divorce by mutual consent was also filed.

16. An application for withdrawal of the criminal case filed by the present applicant against the opposite party no.2 and his WWW.LAWTREND.IN

family members was also filed before the court below and arising therefrom, in Criminal Misc. Application under Section 482 Cr.P.C. No.10101 of 2020, this Court has quashed the proceedings of the criminal case, on the basis of the compromise after its due verification, of which a verification report was submitted by the concerned Chief Judicial Magistrate.

17. In view of the above, this Court does not consider it necessary to get the joint application filed by the present applicant and the opposite party no.2 before the court below in Case No.51620 of 2016 for quashing of which the present application under Section 482 Cr.P.C. has been filed, verified, as that very compromise, was already got verified in Criminal Misc. Application under Section 482 Cr.P.C. No.10101 of 2020.

18. The prayer to quash the proceedings of the criminal case, involved in the present case is also on the basis of the same compromise, which has already been got verified in Criminal Misc. Application under Section 482 Cr.P.C. No.10101 of 2020 and as such this Court on the basis thereof, proceeds to pass orders in the present case as well.

19. Having regard to the factors that the dispute between the parties is predominantly a matrimonial dispute; the parties have amicably settled the dispute by entering into compromise-settlement; the nature of the offence being personal; the FIR being counter blast to the FIR lodged by the applicant against the opposite party no.2 and his family members; the proceeding of criminal case filed by the applicant, having been quashed by this Court on the basis of the same compromise, and the possibility of conviction being remote and bleak; as well as considering the legal position as settled in the cases of (i) **B.S. Joshi & Ors vs State Of Haryana & Anr (2003) 4 SCC 675;**

(ii) Gian Singh vs State Of Punjab & Anr (2012) 10 SCC 303; (iii) Narinder Singh & others versus State of Panjab & another (2014) 6 SCC 46; (iv) Parbatbhai Aahir @ Parbatbhai vs The State Of Gujarat & Ors 2017 (9) SCC 641; and (v) Social Action Forum for Manav Adhikar & others versus Union of India, 2018 (10) SCC 443"; to the effect that the proceedings of even a non-compoundable offence can be quashed on the basis of compromise, such as matrimonial dispute in which type of cases the settlement is to be encouraged, this Court finds it a fit case to quash the proceedings of the criminal case alongwith the charge-sheet, in exercise of inherent powers, in order to prevent abuse of the process of the Court and to secure the ends of justice, as no useful purpose would be served in keeping and proceeding with the criminal proceedings, which would be oppressive to the applicant and opposite party no.2 both.

20. In view of the above, the proceedings of Case No.51620 of 2016(State Vs. Smt. Pooja Mishra), arising out of Case Crime No.164 of 2016, under Section 309, IPC, Police Station Panki, District Kanpur Nagar, pending in the court of Additional Chief Judicial Magistrate, IInd Kanpur Nagar, alongwith the Charge Sheet No.144 of 2016 dated 02.09.2016, filed in the aforesaid case, are hereby quashed.

21. The petition under Section 482 Cr.P.C. is **allowed**.

22. There shall be no orders as to costs.

Order Date :- 12.01.2020
VKG

(Ravi Nath Tilhari,J.)