

Ajay Rai And 8 Others vs State Of U.P. And Another on 31 January, 2025

Author: Sanjay Kumar Pachori

Bench: Sanjay Kumar Pachori

HIGH COURT OF JUDICATURE AT ALLAHABAD

Neutral Citation No. - 2025:AHC:14884

Court No. 75

HIGH COURT OF JUDICATURE AT ALLAHABAD

Application U/S 482 Cr.P.C. No. 29355 of 2024

Ajay Rai And Eight Others

....Applicants

v/s

State of U.P. And Another

....Opposite Parties

ORDER

HON'BLE SANJAY KUMAR PACHORI, J.

1. The present application under Section 482 of the Code of Criminal Procedure, 1973 has been filed

for quashing the entire proceedings of Case No. 3081 of 2021 (State vs. Ajay Rai and others), arising out of Case Crime No. 57 of 2021, under Sections 188, 323, 147, 504, 171-E of Indian Penal Code, P.S. Uldan, Jhansi, as well as cognizance/summoning order dated 16.9.2021, pending in the court of Judicial Magistrate/Civil Judge (Junior Division), Mauranipur, Jhansi, on the basis of compromise executed between the parties on 27.6.2024.

2. Learned counsel for the parties jointly submitted that the parties settled their dispute out of the Court by way of compromise dated 27.06.2024, which has been verified by the court concerned on 7.10.2024. Certified copy of compromise deed as well as proceedings of verification is filed as Annexure No. SA-1 of the supplementary affidavit to compromise the offence punishable under the aforementioned sections. It is further submitted that both the parties are neighbour (padosi) of same village. On being arrived at mutual consent, both the parties have come to terms and decided to settle their dispute, therefore, no useful purpose would be served to keep the matter alive and pending the present case be finally decided.

3. Learned counsel for opposite party nos. 2 also submits that as the applicants and opposite party no. 2 has already arrived at amicable settlement on 27.6.2024, therefore, opposite party no. 2 is no more interested to pursue the case any more against the applicants.

4. Heard Sri Pavan Kumar, learned counsel for the applicants, Sri Santosh Kumar Singh, learned counsel for the opposite party no. 2 and learned A.G.A. for the State and perused the material on record.

5. Present matter is related to offence under the aforementioned sections, both the parties entered into a amicable settlement, and fact of compromise has been confirmed and admitted by learned counsel for the parties and has jointly submitted that in the interest of justice the proceedings may be quashed in the light of the compromise.

6. A three-Judge Bench of the Supreme Court in *Gian Singh v. State of Punjab & another*, (2012) 10 SCC 303, has observed that: (SCC p.340, para 58) "58. Where the High Court quashes a criminal proceeding having regard to the fact that the dispute between the offender and the victim has been settled although the offences are not compoundable, it does so as in its opinion, continuation of criminal proceedings will be an exercise in futility and justice in the case demands that the dispute between the parties is put to an end and peace is resorted; securing the ends of justice being the ultimate guiding factor.."

7. Where matters are also of civil nature i.e. matrimonial, family disputes, etc. the Court may consider "special facts", "special feature" and quash the criminal proceeding to encourage genuine settlement of disputes between the parties. [Vide: *Madhavrao Jiwajirao Scindia v. Sambhajirao Chandraojirao Angre*, (1988) 1 SCC 692].

8. In *Parbathbhai Aahir @ Parbatbhai Bhimsinghbhai Karmur & Others v. State of Gujarat & another*, (2017) 9 SCC 641, after referring the various precedents on the subject, summarized the broad principles relating to the inherent jurisdiction under Section 482 of the Code as under; (SCC,

p. 653, para 16) "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 or 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 insofar 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 offence 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."

9. Keeping in mind the position of law and facts, circumstances of the case, the present application under Section 482 of the Code stands allowed.

10. The entire proceedings relating to proceedings of Case No. 3081 of 2021 (State vs. Ajay Rai and others), arising out of Case Crime No. 57 of 2021, under Sections 188, 323, 147, 504, 171-E of Indian Penal Code, P.S. Uldan, Jhansi, as well as cognizance/summoning order dated 16.9.2021, pending in the court of Judicial Magistrate/Civil Judge (Junior Division), Mauranipur, Jhansi, are hereby quashed.

11. This order is being passed by this Court after hearing the contesting parties and perusing the affidavit filed by the applicants. If at all, opposite party no. 2 feels that he has been duped or betrayed, then in that event, he may file recall application explaining the reasons for filing the said application.

12. The parties may file the certified copy of this order before the court concerned within four weeks from today.

(Sanjay Kumar Pachori, J.) Order Date :- 31.01.2025 VKG