

Arjun Rajbhar And Another vs State Of U.P. And Another on 4 February, 2025

Author: Sanjay Kumar Pachori

Bench: Sanjay Kumar Pachori

HIGH COURT OF JUDICATURE AT ALLAHABAD

Neutral Citation No. - 2025:AHC:15225

Court No. - 75

Case :- APPLICATION U/S 482 No. - 33440 of 2024

Applicant :- Arjun Rajbhar And Another

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

Counsel for Applicant :- Pradeep Kumar

Counsel for Opposite Party :- G.A.

Hon'ble Sanjay Kumar Pachori,J.

1. Supplementary affidavit filed today, which is taken on record.
2. The present application under Section 482 of the Code of Criminal Procedure, 1973 has been filed to quash the entire proceedings of Session Trial No. 153 of 2013, (State Vs. Arjun Rajbhar and another), arising out of Case Crime No. 10 of 2013, under Sections 308, 323, 504 of Indian Penal Code, Police Station- Kotwali, District Maharajganj, pending in the court of Additional Sessions Judge, Court No. 1, Maharajganj.

3. Learned counsel for both the parties submitted that parties settled their dispute arising out of offence punishable under Sections 308, 323, 504 of I.P.C. on the basis of compromise on 21.05.2024, which has been verified in pursuance of the order of Co-ordinate Bench of this Court in the present case on 09.12.2024. Both the parties are neighbours and resident of same village. A copy of the verified compromise as well as verification proceedings has been filed as Annexure- S.A.-1 dated 04.02.2025. It is further submitted that no prosecution evidence has been examined till today.

4. Learned counsel for the opposite party no. 2 argued that as the applicants have already arrived at amicable settlement on 21.05.2024, therefore, opposite party no. 2 is no more interested to pursue the case any more against the applicants.

5. Heard, Sri Pradeep Kumar VI, learned counsel for the applicants and Sri Piyush Patel, learned counsel for the opposite party no. 2 and Sri A.K. Singh, brief holder for the State are present.

6. Brief facts of the case are that the applicants and informant are residents of the same village, there is an old rivalry between the informant and the accused persons, due to which the accused started abusive language to the informant, on hearing which the wife of the first informant came there and refused them to do so, upon which the accused persons committed marpeet with lathi and dandas, due to which the informant and his wife sustained injuries, on hearing the noise, people nearby came and intervened. As per injury report of the informant lacerated wound size 1.5 x 0.5 cm on the left side of head about 6 cm above the left ear bleeding was present and abrasion size 2 cm x 0.5 cm on left lateral aspect of right leg above 7 cm below right knee joint were found except the injury no. 1 all the injuries are simple in nature. As per injury report of wife of the informant, abrasion size 1 cm x 4 cm on the right side of head 7 cm above from the right ear and traumatic swelling on the ventral aspect of right forearm size 4 cm x 2 cm were found, all the injuries are simple in nature caused by hard and blunt object.

7. 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.."

8. 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].

9. 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."

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

11. The entire proceedings of Session Trial No. 153 of 2013, (State Vs. Arjun Rajbhar and another), arising out of Case Crime No. 10 of 2013, under Sections 308, 323, 504 of I.P.C., Police Station-Kotwali, District Maharajganj, pending in the court of Additional Sessions Judge, Court No. 1, Maharajganj, is hereby quashed.

12. This order is being passed by this Court after hearing the contesting parties. 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.

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

14. Interim order, if any, stands vacated.

Order Date :- 4.2.2025 Ishan