

Neutral Citation No. - 2024:AHC:153816

Court No. - 75

Case :- APPLICATION U/S 482 No. - 16162 of 2024

Applicant :- Vihari And 2 Others

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

Counsel for Applicant :- Ashutosh Upadhyay

Counsel for Opposite Party :- G.A.,Rajesh Kumar Singh

Hon'ble Mrs. Manju Rani Chauhan,J.

1. Learned counsel for the State has filed an affidavit of compliance today on behalf of Krishan Kumar, posted as S.P. Sambhal, which is taken on record.

2. Learned counsel for the opposite party no.2 has filed an affidavit today, which is taken on record.

3. Heard Mr. Ashutosh Upadhyay, learned counsel for the applicants, Mr. Ram Surat Patel, learned counsel for opposite party no.2 as well as Mr. A.K. Sand, learned Government Advocate assisted by Mr. Mayank Awasthi, learned counsel for the State and perused the material on record.

4. This application under Section 482 Cr.P.C. has been filed with the prayer to quash the charge sheet dated 22.05.2022 as well as entire proceeding of S.T. No.130 of 2022 (State vs. Vihari & Others), arising out of Case Crime No.101/2022, under Sections 504, 506, 323 I.P.C. and Sections 3(1)da, 3(1)dha S.C./S.T. Act, Police Station- Kaila Devi, District- Sambhal as well as stay the further proceeding of the aforesaid case, pending before the learned Additional District & Session Judge/Special Judge (S.C./S.T. Act), Sambhal at Chandausi, on the basis of compromise.

5. On 05.07.2024, the following order was passed :-

"1. Heard Mr. Ashutosh Upadhyay, learned counsel for the applicants, Mr. Ram Surat Pal, Advocate holding brief of Mr. Rajesh Kumar Singh, learned counsel for opposite party no.2 as well as Mr. D.P. Singh, learned A.G.A. appearing for the State and perused the record.

2. The application under Section 482 Cr.P.C. is filed with the prayer to quash

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the charge sheet dated 22.05.2022 as well as entire proceeding of S.T. No.130 of 2022, (State Vs. Vihari & others), arising out of Case Crime No.101 of 2022, under Sections 504, 506, 323 I.P.C., and Section 3(1)da, 3(1)dha of SC/ST Act, Police Station- Kaila Devi, District-Sambhal, pending before learned Additional District & Session Judge/Special Judge (SC/ST Act), Sambhal, on the basis of compromise.

3. Learned counsel for the applicants submits that the parties have reconciled their differences and a compromise has been entered between them out of Court. In this regard, an affidavit on behalf of both the parties has been moved before the Court concerned mentioning therein that they have entered into compromise and they do not want to press the case, copy of said affidavit has been annexed as Annexure no.7 to this application. Therefore, no useful purpose would be served in continuing the proceedings before the court below and the same is not only sheer wastage of time of the Court but also abuse of the process of law. Hence, proceedings of the aforesaid case be quashed in the light of law laid down by the Apex Court in the case of Gian Singh v. State of Punjab reported in (2012) 10 SCC 303.

4. Learned counsel for the opposite party no.2 does not dispute the correctness of the submissions made by the learned counsel for the applicants.

5. Learned A.G.A., however, submits that it is the concerned court below, which has to verify the fact as to whether the parties have entered into compromise, hence the parties may approach the concerned court below and move an application with respect to compromise between the parties, which will be decided in accordance with law.

6. Whether a compromise has taken place or not can at best be ascertained by the court, where the proceedings are pending, after ensuring the presence of the parties before it.

7. In view of the above, both the parties are directed to appear before the court below along with a certified copy of this order within two weeks from today and be permitted to file a proper compromise deed. It is expected that the trial court may fix a date for the verification of the compromise and after ensuring the presence of parties, pass an appropriate order with respect to the same in accordance with law, after hearing the informant, as expeditiously as possible, preferably within a period of two months from today. While passing the order verifying the compromise, the concerned court shall also record the statements of the parties as to whether all the terms and conditions mentioned in the original compromise deed, so filed, have been fulfilled or not? The facts regarding the amount towards compensation as received and stated to be returned, shall also be verified.

8. If the said compromise as well as compensation is verified, the same shall be made part of the record and report to that effect, will be prepared and the parties would be allowed to obtain certified copy thereof and file the same before this Court.

9. Put up this case on 06.08.2024, as fresh, at 02:00 p.m.

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10. Till then, no coercive measure shall be taken against the applicants in the aforesaid case."

6. As the opposite party no.2 was not ready to return the money as informed by the learned counsel for the applicants, therefore, on 22.08.2024, the following order was passed :-

"1. Earlier on the basis of compromise deed annexed at page 61 (Annexure No. 7) to the application, the counsel for the parties (Mr. Ashutosh Upadhyay for the applicant and Mr. Ram Surat Patel, Advocate holding brief of Mr. Rajesh Kumar Singh for the opposite party no. 2, wrongly typed as Ram Surat Pal in the earlier order dated 05.07.2024), had requested the Court to send the matter for verification of the aforesaid compromise.

2. Today, when the matter was taken up counsel for the applicant has fairly conceded that he wants to withdraw the application as the opposite party no. 2 is not ready to return the compensation amount of Rs. 75,000/- as paid by State Government, therefore, the opposite party no. 2 Ajay Pal has reframed from the compromise as entered between the parties. This conduct of opposite party no. 2 is not appreciated.

3. Let the opposite party no. 2 be present here alongwith draft of Rs. 75,000/- as once he has entered into compromise and placed his signatures on the compromise deed, he cannot withdraw his consent from the compromise on this ground.

4. The S.P., Sambhal is directed to ensure presence of opposite party no. 2 on the next date of listing.

5. The aforesaid information shall also be given by Mr. Ram Surat Patel, Advocate holding brief of Mr. Rajesh Kumar Singh, learned counsel for the opposite party no. 2 to opposite party no. 2.

6. Put up this case as fresh on 4th September, 2024.

7. Till then, no coercive action shall be taken against the applicants in the present case.

8. Registrar (Compliance) is directed to communicate this order to the S.P., Sambhal for its compliance forthwith.

9. Mr. Amit Singh Chauhan, learned AGA-I shall inform about this order to Mr. A.K. Sand, learned Government Advocate, who shall also look into necessary compliance of this order."

7. In non-compliance of the aforesaid order, on 04.09.2024, the following order was passed :-

"1. Heard Mr. Ashutosh Upadhyay, learned counsel for the applicants, Mr. Rajesh Kumar Singh, learned counsel for opposite party no.2 as well as Mr. Amit Singh Chauhan, learned AGA for the State.

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2. As per the order dated 22.08.2024, the S.P. Sambhal was directed to ensure the presence of opposite party no.2 before this Court on 4th September, 2024 i.e. today. Though, letter from the office of learned Government Advocate has been sent but the order has not been complied with.

3. Learned counsel for opposite party no.2 submits that the opposite party no.2 has informed him that he has not received any compensation amount.

4. Let the District Magistrate, Sambhal place a report regarding the fact as to whether compensation amount has been given to the opposite party no.2 or not by the next date. In compliance of the earlier order dated 22.08.2024, the S.P. Sambhal shall also be present before this Court.

5. Put up this case, as fresh, on 18th September, 2024.

6. Interim order granted earlier is extended till the next date of listing.

7. Registrar (Compliance) shall look into the compliance of this order by calling for the compensation report from the District Magistrate, Sambhal and also ensure the presence of S.P. Sambhal on the next date fixed.

8. The learned Government Advocate shall also look into compliance of this order.

9. Let a copy of this order be given to the learned Government Advocate free of cost."

8. In compliance of the aforesaid order, today Mr. Ashutosh Upadhyay, learned counsel for the applicants, Mr. Ram Surat Patel, learned counsel for opposite party no.2 as well as Mr. A.K. Sand, learned Government Advocate assisted by Mr. Mayank Awasthi, learned counsel for the State are present.

9. In compliance of the earlier order, S.P. Sambhal namely Krishan Kumar is present before this Court. The opposite party no.2 namely Ajay Pal has been brought to this Court by Rajeev Malik, SHO, Police Station- Kaila Devi, District- Sambhal and has been identified by Mr. Ram Surat Patel, learned counsel appearing on his behalf.

10. When specific query was raised by this Court to opposite party no.2 namely Ajay Pal as to why he was not returning the compensation amount, he could not give a proper answer and tendered apology admitting that, under pressure of the villagers he has lodged a false FIR. He states that he will be careful in the future. The opposite party no.2 also states that he does not want to press the case and has stated that he has given such a statement before the trial court and a certified copy of the aforesaid statement as given by the opposite party no.2 before the court below is

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passed on to the Court today and the same has been placed on record.

11. Opposite party no.2 has brought a demand draft of Rs.75,000/- in favour of District Social Welfare Officer, Sambhal dated 17.09.2022 issued by State Bank of India having Demand Draft No.071515. The aforesaid draft is being sent to Registrar General, High Court of Judicature at Allahabad to be returned to the concerned District Magistrate after retaining a photocopy of the same. The District Magistrate, Sambhal shall place the said draft before the District Social Welfare Officer, Sambhal who in turn shall deposit the aforesaid draft in the State Exchequer account and report about the same to the concerned District Magistrate, who in turn shall submit a report before Registrar General, High Court of Judicature at Allahabad, in respect of deposition of the aforesaid draft. The District Magistrate, Sambhal is further directed to ensure that the rest compensation amount of Rs.25,000/- is not released in favour of opposite party no.2.

12. The aforesaid order has been passed in the presence of learned counsel for the applicants, learned counsel for the opposite party no.2 as well as learned counsels for the State.

13. Learned counsel for the applicants further submits that since the parties have entered into compromise and the opposite party no.2 has given his statement before this Court that he does not want to proceed with the case, the entire proceedings of the aforesaid criminal case may be quashed by this Court.

14. Learned A.G.A. for the State as well as learned counsel for the opposite party no.2 also accept that the parties have entered into a compromise and they have no objection, if the proceedings in the aforesaid case are quashed.

15. This Court is not unmindful of the following judgements of the Apex Court:

(i). **B.S. Joshi and others Vs. State of Haryana and Another;** (2003)4 SCC 675,

(ii). **Nikhil Merchant Vs. Central Bureau of Investigation;** (2008) 9 SCC 677,

(iii). **Manoj Sharma Vs. State and Others;** (2008) 16 SCC 1,

(iv). **Gian Singh Vs. State of Punjab;** (2012); 10 SCC 303,

(v). **Narindra Singh and others Vs. State of Punjab; (2014) 6 SCC 466,**

16. In the aforesaid judgments, the Apex Court has categorically held that compromise can be made between the parties even in respect of certain cognizable and non compoundable offences. Reference may also be made to the decision given by this Court in **Shaifullah and Others Vs. State of U.P. & Another; 2013 (83) ACC 278** and **Pramod & Another Vs. State of U.P. & Another (Application U/S 482 No.12174 of 2020, decided on 23rd February, 2021)** and **Daxaben Vs. State of Gujarat, reported in 2022 SCC Online SC 936** in which the law expounded by the Apex court in the aforesaid cases has been explained in detail.

17. Given the facts and circumstances of the case, as outlined above, and considering the submissions made by counsel for both parties, the court is of the considered opinion that prolonging the proceedings in the aforementioned criminal case would serve no useful purpose, as the parties have already resolved their dispute.

18. It is deeply concerning to observe that, while adjudicating cases under the jurisdiction of the Prevention of Atrocities Act concerning SC/ST individuals, this Court has encountered numerous instances where false and exaggerated complaints are being filed for financial gain. The Act, which was designed to provide immediate relief to victims of atrocities, is being misused by some individuals to obtain compensation. The Court has identified several cases where false FIRs were lodged with the sole aim of securing such compensation. To prevent this abuse, a rigorous verification process must be implemented by the authorities before the lodging of an FIR. However, even with such mechanisms in place, if it is discovered that a false FIR has been filed purely for financial gain, the individuals responsible should be held legally accountable. This would serve as a deterrent against the misuse of the Act for personal profit.

19. The weaponization and misuse of provisions intended to protect vulnerable groups who have historically faced discrimination not only undermines the very spirit of these laws but also hampers the progress toward genuine equality. When legal safeguards are exploited for personal or financial gain, it dilutes their effectiveness and erodes public trust in the justice system. Such actions divert attention and resources away from legitimate cases where real victims need protection and justice. Ultimately, this misuse threatens to perpetuate inequality, as it distorts the purpose of these protective measures, which are crucial for

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addressing systemic injustices and creating a truly equitable society. For true equality to be realized, these legal provisions must be applied with integrity, ensuring they serve those genuinely in need and not those seeking to exploit the system for unjust gains.

20. While the SC/ST Act plays a crucial role in safeguarding vulnerable communities, measures must be implemented to ensure that compensation relief funds are allocated efficiently and fairly, preventing misuse and supporting genuine victims. At the same time, to maintain balance and deter the abuse of this special legislation, courts should invoke the legal recourse available under Section 182 of the I.P.C. to hold accountable those individuals, who file false FIRs solely for the purpose of securing compensation. This will ensure that the integrity of the Act is preserved while punishing those who attempt to exploit it for personal gain.

21. The SC/ST Act is an essential legal safeguard that provides critical protection to historically disadvantaged and marginalized communities. It serves as a vital tool in combating entrenched discrimination, ensuring that those who have faced systemic injustices are afforded legal recourse and relief. By addressing atrocities and promoting social justice, the Act helps bridge the gap between marginalized groups and the broader society, advancing the cause of equality and dignity for all. However, the exploitation of this important provision for personal or financial gain undermines its true purpose. When the Act is misused, it creates suspicion and skepticism within the criminal justice system, eroding the trust of both the public and the innocent individuals who are genuinely affected by discrimination. Such misuse diverts attention away from real victims, weakening the effectiveness of the law and casting doubt on the authenticity of future claims. In the long run, this not only harms the credibility of the justice system but also hinders the progress toward achieving genuine equality for those who continue to face prejudice and marginalization. Maintaining the integrity of the SC/ST Act is essential for preserving its role in protecting the vulnerable and upholding justice.

22. To effectively address the misuse of the SC/ST Act and ensure that its provisions are not exploited, several measures should be implemented. First, a thorough pre-registration verification process should be established, requiring law enforcement to assess the credibility of complaints before filing FIRs. This could involve mandatory mediation sessions, where parties can attempt to

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resolve disputes amicably before resorting to legal action. Second, training programs should be conducted for police officers and judicial officials to help them recognize signs of potential misuse and to ensure that they approach cases with sensitivity and awareness of the implications. Third, a dedicated oversight body could be established to monitor complaints under the SC/ST Act, investigating patterns of misuse and providing recommendations for action. Finally, public awareness campaigns should be launched to educate communities about the Act's purpose and the consequences of filing false claims, thereby fostering a culture of integrity and accountability. These measures would not only help safeguard the Act's integrity but also support genuine victims in receiving the justice they deserve.

23. In view of the statement given by opposite party no.2 before this Court, the proceeding of charge sheet dated 22.05.2022 as well as S.T. No.130 of 2022 (State vs. Vihari & Others), arising out of Case Crime No.101/2022, under Sections 504, 506, 323 I.P.C. and Sections 3(1)da, 3(1)dha S.C./S.T. Act, Police Station- Kaila Devi, District- Sambhal, pending before the learned Additional District & Session Judge/Special Judge (S.C./S.T. Act), Sambhal at Chandausi, are hereby **quashed**.

24. The application is, accordingly, **allowed**. There shall be no order as to costs.

25. This order be placed before the Registrar General of this Court for its circulation to all District Courts highlighting the observations, made hereinabove, who will pass orders, in such cases, taking into consideration the reports submitted by Investigating Officers under Section 173(2) Cr.P.C., in accordance with law and also keeping in mind the provisions of Section 182 I.P.C.

26. A copy of this order be communicated to learned Government Advocate, High Court, Allahabad, who shall send it to the Director General of Police, U.P., for issuance of necessary circular to the Police Authorities of the Districts to consider the observations of the Court with regard to invocation of the provisions of Section 182 I.P.C. (now 217 of B.N.S. 2023).

Order Date :- 18.9.2024

Kalp Nath Singh