
(2010) 09 AHC CK 0156
In the Allahabad High Court

Deepak and Others

APPELLANT

Vs

State of U.P. and Another

RESPONDENT

Date of Decision : 03-09-2010

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 125, 362, 482

Citation : (2010) 09 AHC CK 0156

Hon'ble Judges : Kashi Nath Pandey, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Kashi Nath Pandey, J.—This application dated 4.5.10 has been filed u/s 482 Cr.P.C. for quashing the charge-sheet, dated 14.6.2009 in case crime No. 453 of 2009. Heard learned Counsel for the applicant, learned Additional Government Advocate for the State and perused the record.

2. It is pertinent to mention here that regarding the same matter CrI. Misc. Application (under Section 482 Cr.P.C.) No . 22763 of 2009 was moved by the petitioner and by order dated 9.9.2009 on the request of the learned Counsel for the petitioner the matter was referred to the Mediation Centre with the direction that applicant No. 1 Deepak shall deposit a sum of Rs. 5000/-with the Mediation Centre by way of Bank draft drawn in favour of opposite party No. 2, Smt. Kamini Devi within two weeks. The Bank draft shall be handed over to the opposite party No. 2 on her appearing before the Mediation Centre on the date fixed. It was clarified that the amount meant to expenses to be incurred for attending the Mediation Centre by opposite party No. 2 but this condition could not have been complied by the petitioner within the time. Thereafter on the application of the applicant/petitioner Criminal Misc. Application No. 22763 of 2009 was dismissed as withdrawn vide order dated 12.3.2010 by the court. It is also to be noted that in a case pending between the parties u/s 125 Cr.P.C. compromise deed dated 29.1.2010 was filed and accordingly Maintenance Case No. 221 of 2009 Kamini v. Deepak was decided vide order dated 25.2.2010. The

Maintenance Application was rejected on the ground that the parties entered into compromise. They compromised to live with each other peacefully and Kamini expressed before the court that she is going with her husband to his house.

3. This application u/s 482 Cr.P.C. has been filed on the ground as mentioned in the old Crl. Misc. Application No. 22763 of 2009 which has been finally dismissed, therefore, there is no reason to entertain this second petition/application between the parties regarding the same fact.

4. Learned Counsel for the applicant submitted Criminal Appeal No. 5238 of 2004 State v. K.V. Rajendran, decided on 2.9.2008 by Hon"ble Supreme Court and argued that in view of the changed circumstances of compromise the petition/application u/s 482 Cr.P.C. may be entertained and it may be sent to the Mediation Centre, but I do not find any change of circumstances to entertain this second petition/application u/s 482 Cr.P.C. because the parties have entered into compromise on 29.1.2010 and accordingly the case pending u/s 125 Cr.P.C. was decided on 25.2.10 and thereafter Criminal Misc. Application No. 22763 of 2009 has been dismissed vide order dated 12.3.2010. Therefore, there is no change of circumstances after 12.3.10 and before 4.5.2010, therefore, even on the ground of fact this application u/s 482 Cr.P.C. is not maintainable. The ratio in the above Criminal Appeal No. 5238 of 2004 is that the court is barred u/s 362 Cr.P.C. to review its judgment, except in case of clerical and arithmetical error. Section 362 Cr.P.C. has extended the bar of review not only to the judgment but also to the final orders other than the judgment.

5. Section 482 Cr.P.C. enables the High Court to make such order as may be necessary to give effect to any order under the Code or to prevent abuse of the process of any Court or otherwise to secure the ends of justice. In the present case there is nothing to give effect to any order passed under the Code, if the charge-sheet has been submitted after due investigation, there is nothing to prevent the abuse of the process of the Court. Whereas the question of otherwise to secure the ends of justice is concerned, seeing the compromise between the parties, it is open for the parties to appear before the court concerned, where the charge-sheet is pending for bringing the fact of compromise into the notice of the court and court is expected to proceed in accordance with law.

6. In view of above discussion, I do not find any reason to entertain this application u/s 482 Cr.P.C. Accordingly at the stage of admission it is hereby dismissed.