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**(2015) 06 AHC CK 0008**

**In the Allahabad High Court**

**Case No : Application U/S. 482 No. 16887 of 2015**

Pramod Kumar and Others

APPELLANT

Vs

State of Uttar Pradesh and Others

RESPONDENT

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**Date of Decision : 26-06-2015**

**Acts Referred:**

Constitution of India, 1950 — Article 142, 226, 227  
Criminal Procedure Code, 1973 (CrPC) — Section 320, 482  
Penal Code, 1860 (IPC) — Section 307, 317, 323, 324, 325

**Citation : (2015) 06 AHC CK 0008**

**Hon'ble Judges : Mukhtar Ahmad, J**

**Bench : Single Bench**

**Advocate : R.B. Singh, for the Appellant**

**Final Decision : Allowed**

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## **Judgement**

Mukhtar Ahmad, J.—Supplementary affidavit/Joint affidavit of Pramod Kumar @ Raju, Narvda Prasad applicants and opposite party No. 2 Raj Narayan filed today, is taken on record.

2. Heard learned counsel for the applicants, learned counsel for the opposite party No. 2 and learned A.G.A. for the State.

3. This application under Section 482 Cr.P.C. has been moved by the applicants for quashing the entire proceedings of Case Crime No. 780 of 2002 State v. Pramod Kumar and others arising out of Case Crime No. 134 of 2002 under Sections 325, 323, 504 I.P.C., Police Station Dhata, District Fatehpur. Further proceedings of the matter are also prayed to be stayed.

4. It appears that some altercation took place between the parties and in this regard, an F.I.R. was registered at Case Crime No. 134 of 2002 under Sections 325, 323, 504 I.P.C.; that matter was subsequently ordered to be investigated and I.O. submitted the chargesheet and matter is pending before Learned Judicial Magistrate, Khaga, District Fatehpur. It is also stated that now parties

have entered into compromise and a joint affidavit on behalf of both the parties has also been filed.

5. I have heard learned counsel for the parties and perused the record.

6. Learned counsel for the applicants, submit that they are innocent and no offence has been committed by them. He further submits that due to some misunderstanding the F.I.R. in question was lodged against the applicants. But subsequently the matter has been resolved due to intervention of some elders and respective persons of the society and parties have entered into compromise and a joint affidavit has been filed by them. It has also been submitted that presently both the parties have no grievance against each other. Therefore, whole proceedings of Case Crime No. 134 of 2002 are prayed to be quashed in the interest of justice and to bring peace and harmony between the parties. 7.

7. Shri S.K. Pandey learned counsel for the respondent No. 2 has also expressed his concurrence with the above submissions made by learned counsel for the applicants.

8. On the other hand learned A.G.A. has submitted that if the matter is going to be disposed of by way of compromise, he has no objection.

9. In view of the submissions made above, admittedly the joint affidavit has been filed by the applicants namely Pramod Kumar @ Raju, Narvda Prasad, Suggan and opposite party No. 2 Raj Narayan. The relevant portion of the affidavit is reproduced below :

"We, the deponent above named do hereby solemnly affirmed on oath as under -

1. That, the deponents are the Opposite Party No. 2 and applicant No. 1, 2 and 3 in the present case, and as such they are well acquainted with the facts of the case as deposed to below for the purpose of proof of I.D. And one their photography has been annexed/pasted with this affidavit.

2. That since both the parties are ready to set aside the entire proceeding and Learned Court below having no jurisdiction to quash the entire proceeding and under Section 482 Cr.P.C., this Hon''ble Court having the inherent power to quash the entire proceeding of Case No. 780 of 2002 arising out of Case Crime No. 134 of 2002 under Sections 325, 323, 504 I.P.C. Police Station Dhata District Fatehpur.

3. That both the parties are agree in the terms of compromise and in this regards the opposite party No. 2 was appear before the Court below and given the statement before the Court below about the compromise between the parties.

4. That both the parties are entered in compromise without any pressure and fear.

5. That since both the parties are ready in the terms of compromise and dispute settles between the parties out of court hence the entire proceeding of Case No.

780 of 2002 arising out of case Crime No. 134 of 2002 under Section 325, 323, 504 I.P.C. Police Station Dhata District Fatehpur may be quashed, pending in the court of Learned Judicial Magistrate Khaga District Fatehpur. So Justice may be done."

While dealing with the scope of the inherent powers of the High Courts under Section 482, Code of Criminal Procedure (Code) read with Articles 226 and 227 of the Constitution of India to quash criminal proceedings, the Apex Court in the case of B.S. Joshi and others v. State of Haryana and another decided on 13.05.2003, held as follows:

"..... In Madhavrao Jiwajirao Scindia and Others Vs. Sambhajirao Chandojirao Angre and Others, AIR 1988 SC 709 : (1988) CriLJ 853 : (1988) 1 Crimes 780 : (1988) 1 JT 279 : (1988) 1 SCALE 261 : (1988) 1 SCC 692 : (1988) 2 SCR 930 , it was held that while exercising inherent power of quashing under Section 482, it is for the High Court to take into consideration any special features which appear in a particular case to consider whether it is expedient and in the interest of justice to permit a prosecution to continue. Where, in the opinion of the Court, chances of an ultimate conviction is bleak and, therefore, no useful purpose is likely to be served by allowing a criminal prosecution to continue, the court may, while taking into consideration the special facts of a case, also quash the proceedings.

The special features in such matrimonial matters are evident. It becomes the duty of the Court to encourage genuine settlements of matrimonial disputes. The observations made by this Court, though in a slightly different context, in G.V. Rao Vs. L.H.V. Prasad and Others, AIR 2000 SC 2474 : (2000) 2 JT 627 : (2000) 2 SCALE 234 : (2000) 3 SCC 693 : (2000) AIRSCW 2600 : (2000) 2 Supreme 165 are very apt for determining the approach required to be kept in view in matrimonial dispute by the courts, it was said that there has been an outburst of matrimonial disputes in recent times. Marriage is a sacred ceremony, the main purpose of which is to enable the young couple to settle down in life and live peacefully. But little matrimonial skirmishes suddenly erupt which often assume serious proportions resulting in commission of heinous crimes in which elders of the family are also involved with the result that those who could have counselled and brought about rapprochement are rendered helpless on their being arrayed as accused in the criminal case. There are many other reasons which need not be mentioned here for not encouraging matrimonial litigation so that the parties may ponder over their defaults and terminate their disputes amicably by mutual agreement instead of fighting it out in a court of law where it takes years and years to conclude and in that process the parties lose their "young" days in chasing their "cases" in different courts.

There is no doubt that the object of introducing Chapter XX-A containing Section 498A in the Indian Penal Code was to prevent the torture to a woman by her husband or by relatives of her husband. Section 498A was added with a view to punishing a husband and his relatives who harass or torture the wife to coerce

her or her relatives to satisfy unlawful demands of dowry. The hyper-technical view would be counter productive and would act against interests of women and against the object for which this provision was added. There is every likelihood that non-exercise of inherent power to quash the proceedings to meet the ends of justice would prevent women from settling earlier. That is not the object of Chapter XXA of Indian Penal Code.

In view of the above discussion, we hold that the High Court in exercise of its inherent powers can quash criminal proceedings or FIR or complaint and Section 320 of the Code does not limit or affect the powers under Section 482 of the Code....."

In its judgment rendered in the case of Nikhil Merchant Vs. Central Bureau of Investigation and Another, AIR 2009 SC 428 : (2008) CLT 1226 : (2008) 9 JT 192 : (2008) 11 SCALE 379 : (2008) 9 SCC 677 , the Apex Court has held as under:

"..... 24. On an overall view of the facts as indicated hereinabove and keeping in mind the decision of this Court in B.S. Joshi's case (supra) and the compromise arrived at between the Company and the Bank as also clause 11 of the consent terms filed in the suit filed by the Bank, we are satisfied that this is a fit case where technicality should not be allowed to stand in the way in the quashing of the criminal proceedings, since, in our view, the continuance of the same after the compromise arrived at between the parties would be a futile exercise.

25. We, therefore, set aside the order passed by the High Court dismissing the petitioner's revision application No. 49 of 2003 in Special Case No. 80 of 1998 and quash the proceedings against the appellant. The appeal is accordingly allowed."

A Bench of Apex Court having strength of three judges including the then Chief Justice of India while dealing scope to Section 482 Cr.P.C. in Criminal Appeal No. 447 of 2013 in its judgment dated 15.03.2013, held in paras 7, 11 to 14 as follows:

"7) It is not in dispute that matrimonial disputes have been on considerable increase in recent times resulting in filing of complaints under Sections 498A and 406 of IPC not only against the husband but also against the relatives of the husband. The question is when such matters are resolved either by the wife agreeing to rejoin the matrimonial home or by mutual settlement of other pending disputes for which both the sides approached the High Court and jointly prayed for quashing of the criminal proceedings or the FIR or complaint by the wife under Sections 498A and 406 of IPC, whether the prayer can be declined on the sole ground that since the offences are non-compoundable under Section 320 of the Code, it would be impermissible for the Court to quash the criminal proceedings or FIR or complaint.

11) The inherent powers of the High Court under Section 482 of the Code are wide and unfettered. In *B.S. Joshi (supra)*, this Court has upheld the powers of the High Court under Section 482 to quash criminal proceedings where dispute is of a private nature and a compromise is entered into between the parties who are willing to settle their differences amicably. We are satisfied that the said decision is directly applicable to the case on hand and the High Court ought to have quashed the criminal proceedings by accepting the settlement arrived at.

12) In our view, it is the duty of the courts to encourage genuine settlements of matrimonial disputes, particularly, when the same are on considerable increase. Even if the offences are non-compoundable, if they relate to matrimonial disputes and the court is satisfied that the parties have settled the same amicably and without any pressure, we hold that for the purpose of securing ends of justice, Section 320 of the Code would not be a bar to the exercise of power of quashing of FIR, complaint or the subsequent criminal proceedings.

13) There has been an outburst of matrimonial disputes in recent times. The institution of marriage occupies an important place and it has an important role to play in the society. Therefore, every effort should be made in the interest of the individuals in order to enable them to settle down in life and live peacefully. If the parties ponder over their defaults and terminate their disputes amicably by mutual agreement instead of fighting it out in a court of law, in order to do complete justice in the matrimonial matters, the courts should be less hesitant in exercising its extraordinary jurisdiction. It is trite to state that the power under Section 482 should be exercised sparingly and with circumspection only when the court is convinced, on the basis of material on record, that allowing the proceedings to continue would be an abuse of the process of the court or that the ends of justice require that the proceedings ought to be quashed. We also make it clear that exercise of such power would depend upon the facts and circumstances of each case and it has to be exercised in appropriate cases in order to do real and substantial justice for the administration of which alone the courts exist. It is the duty of the courts to encourage genuine settlements of matrimonial disputes and Section 482 of the Code enables the High Court and Article 142 of the Constitution enables this Court to pass such orders.

14) In the light of the above discussion, we hold that the High Court in exercise of its inherent powers can quash the criminal proceedings or FIR or complaint in appropriate cases in order to meet the ends of justice and Section 320 of the Code does not limit or affect the powers of the High Court under Section 482 of the Code."

In the case of *Narinder Singh and others (supra)*, wherein a criminal case was registered under Sections 307, 324, 323/34 I.P.C. After considering the facts and circumstances of the case, the Apex Court held as follows:

"..... 34. We find from the impugned order that the sole reason which weighed with the High Court in refusing to accept the settlement between the parties was

the nature of injuries. If we go by that factor alone, normally we would tend to agree with the High Court's approach. However, as pointed out hereinafter, some other attendant and inseparable circumstances also need to be kept in mind which compel us to take a different view.

We have gone through the FIR as well which was recorded on the basis of statement of the complainant/victim. It gives an indication that the complainant was attacked allegedly by the accused persons because of some previous dispute between the parties, though nature of dispute etc. is not stated in detail. However, a very pertinent statement appears on record viz., "respectable persons have been trying for a compromise up till now, which could not be finalized". This becomes an important aspect. It appears that there have been some disputes which led to the aforesaid purported attack by the accused on the complainant. In this context when we find that the elders of the village, including Sarpanch, intervened in the matter and the parties have not only buried their hatchet but have decided to live peacefully in future, this becomes an important consideration. The evidence is yet to be led in the Court. It has not even started. In view of compromise between parties, there is a minimal chance of the witnesses coming forward in support of the prosecution case. Even though nature of injuries can still be established by producing the doctor as witness who conducted medical examination, it may become difficult to prove as to who caused these injuries. The chances of conviction, therefore, appear to be remote. It would, therefore, be unnecessary to drag these proceedings. We, taking all these factors into consideration cumulatively, are of the opinion that the compromise between the parties be accepted and the criminal proceedings arising out of FIR No. 121 dated 14.7.2010 registered with Police Station LOPOKE, District Amritsar Rural be quashed. We order accordingly."

10. In the case of Sharad Singhal and others v. State of U.P. and another, while dealing with a criminal Case No. 7669 of 2009 arising out of Case Crime No. 03 of 2009 under Section 498A, 323, 307, 317, 504, 506, 34 I.P.C. read with Section 34 I.P.C., Police Station Mahila Thana, District Meerut, this Court has also quashed the proceedings of the above case in exercise of inherent powers under Section 482 Cr.P.C."

11. In the present case it is a version of both the parties that due to intervention of some elders and respective persons of the society, the parties have buried their hatchet and decided to live peacefully in future. The evidence of the prosecution has not been started yet. In view of the compromise between the parties, there is a minimal chance of the witnesses coming forward in support of the prosecution case and it would be difficult to prove as to who has caused the injuries to the victim and what role has been played by which particular accused in causing the injuries. In these circumstances, all the chances of conviction of applicants/accused persons appear to be remote. In these circumstances no useful purpose will be served by dragging the proceedings arise from the aforesaid criminal case.

12. Taking into consideration and all the circumstances alongwith settled legal position and discussed above, I am of the view that the proceedings of the criminal case are liable to be quashed.

13. Accordingly application under Section 482 Cr.P.C. No. 16887 of 2015 is allow and entire proceedings of above criminal case No. 780 of 2002 State v. Pramod Kumar and others arising out of the case crime No. 134 of 2002 under Section 325, 323, 504 I.P.C. Police Station Dhata District Fatehpur pending before the court of Judicial Magistrate, Khaga, District Fatehpur are hereby quashed.