
(2008) 08 AHC CK 0027
In the Allahabad High Court

Ramapati Mishra

APPELLANT

Vs

State of U.P. and Raj Kumar

RESPONDENT

Date of Decision : 08-08-2008

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 125, 200, 202, 482

Dowry Prohibition Act, 1961 — Section 3, 4

Penal Code, 1860 (IPC) — Section 323, 417, 467, 468, 471

Citation : (2008) 08 AHC CK 0027

Hon'ble Judges : Vijay Kumar Verma, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Vijay Kumar Verma, J.—By means of these applications u/s 482 of the code of Criminal Procedure (in short the "Cr.P.C."), the applicants Ramapati Mishra and Deena Nath have invoked the inherent jurisdiction of this Court, praying for quashing of the proceedings of Complaint Case ho. 1422 of 2093 (Raj Kumar v. Deena Nath and Ors.), pending in the court of Additional Chief Judicial Magistrate Gyanpur (Bhadohi).

2. Shorn of unnecessary details, the facts leading to the filing of the applications u/s 482 Cr.P.C., in both these cases are that Raj Kumar Mishra (Opposite party No. 2 herein) had filed a complaint in the court of Additional Chief Judicial Magistrate Ghaypur (Bhadohi) on 07.07.2003, which was registered as complaint Case No. 1422 of 2003. The allegations made in the complaint, in brief, are that the accused Deena Nath in collusion with the accused Rama Pati Mishra playing fraud executed a sale deed of plot No. 149 in favour of the complainant after receiving Rs. 30,000/-, whereas he was not the owner of this plot. After recording the statement of the complainant u/s 200 Cr.P.C. and taking evidence u/s 202 Cr.P.C, the accused Deena Nath and Ramapati were summoned to face the trial u/s 417, 467, 468, 471, 504 and 506 IPC vide order dated 16.08.2003. Against that summoning order, objections were filed by the applicants in the

court of magistrate concerned, who declined to recall the summoning order. Thereafter criminal revision was filed by the applicants challenging the summoning order, but the said revision was dismissed being not pressed vide order dated 27.11.2004. Now the applicants-accused have come to this Court for quashing the proceedings of complaint case mentioned herein-above.

3. Heard argument of Sri P.N. Tripathi Advocate appearing for the applicants, Sri H.K. Shukla learned Counsel for the O.P. No. 2/complainant and learned AGA for the State.

4. It was submitted by learned Counsel for the parties that the dispute is of personal nature, which has been settled by the parties outside the court and hence the proceedings of complaint case should be quashed by this Court in its inherent jurisdiction u/s 482 Cr.P.C, as continuance of the said proceedings would be an abuse of the process of the Court. For this Submission, the parties counsel have placed reliance on the cases of B.S. Joshi and Others Vs. State of Haryana and Another, and Ausaf Ahmad Abbasi and Ors. v. State of U.P. and Anr. 2066(30) JIC 135 (AllD).

5. The complainant/O.P. No. 2 Raj Kumar has filed counter affidavit in Crl. Misc. Application No. 59 of 2G04. It is alleged in the said counter affidavit that the parties have entered into compromise and in pursuance of that compromise, the accused have made part payment to the deponent and have given assurance to make remaining payment after withdrawal of the complaint by the deponent. It is prayed in para 6 of the counter affidavit that criminal proceedings of Complaint Case No. 1422 of 2003 be quashed- In para 3 of the counter affidavit it is stated that the complainant/deponent dose not want to prosecute the complaint in view of the compromise entered into between the parties. There is no reason to disbelieve the averments made in the counter affidavit and since the complainant himself does not want to prosecute his complaint and has made request to quash the proceedings of his complaint case, hence keeping in view the observations made in cases of B.S. Joshi v. State of Haryana and Ausaf Ahmad Abbasi v. State of U.P. (supra), proceedings of the complaint case referred to above may be quashed by this Court on its inherent jurisdiction. In the case of Ruchi Agarwal v. Amit Kumar Agrawal and Ors.⁵¹ (2005) ACC 21, the Hon''ble Apex Court quashed the proceedings of the criminal case due to the compromise entered into between the parties. Following this case, this Court in the case of Shikha Singh and Ors. v. State of U.P. and Anr.⁵⁹ (2007) ACC 123, quashed the proceedings of criminal case due to the compromise entered into between the parties. Similarly in the case of Dinesh Kumar Jain and Ors. v. State of U.P. and Ors. 2007 (59) ACC 148, this Court has quashed the proceedings of the criminal case u/s 498A, 323, 504, 506 IPC and 3/4 D.P. Act due to the compromise entered into between the parties in the proceedings u/s 125 Cr.P.C. Reliance in this case has been placed on B.S. Joshi v. State of Haryana (supra). In the case of Ganga Charan Rajpoot v. State of U.P. and Ors. 2007 (57) ACC 981, the proceedings of criminal case was quashed by the Court due to the compromise

entered into between the parties outside the court.

6. Having regard to the observations made in the rulings mentioned herein-above, I am of the opinion that it would be an abuse of the process of the Court, if the criminal proceedings against the applicants is allowed to continue, as the dispute was of personal nature, which has been settled out side the court by means of compromise. Therefore, to do the complete justice, the proceedings of Complaint Case No. 1422 of 2003 may be quashed by this Court in its inherent jurisdiction u/s 482 Cr.P.C.

7. Consequently, the applications u/s 482 Cr.P.C. in both the cases are allowed and proceedings of Complaint Case No. 1422 of 2003 (Raj Kumar v. Deena Nath and Ors.), under Sections 417, 467, 468, 471, 504 & 506 IPC, pending in the court of Additional Chief Judicial Magistrate Gyanpur (Bhadohi), are hereby quashed.

8. This order will form part of Crl. Misc. Application No. 14172 of 2004 and a copy thereof will be kept on record of Crl. Misc. Application No. 59 of 2005.

9. The office is directed to send a copy of this order to the Additional Chief Judicial Magistrate Gyanpur (Bhadohi) for necessary action.