
(2009) 05 AHC CK 0455

In the Allahabad High Court

Case No : Criminal Miscellaneous Case No. 1020 of 2009

Sardar Avtar Singh Chabara and others

APPELLANT

Vs

State of Uttar Pradesh and another

RESPONDENT

Date of Decision : 08-05-2009

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 320, 482
Penal Code, 1860 (IPC) — Section 323, 406, 420, 427, 504

Citation : (2009) 05 AHC CK 0455

Hon'ble Judges : S.S.Chauhan, J

Final Decision : Allowed

Judgement

S.S. Chauhan, J.

Heard learned counsel for the petitioners and the learned counsel for the complainant as well as learned AGA.

This petition has been filed for quashing the proceedings pending in the Court of Chief Judicial Magistrate, Raebareli.

Initially a complaint under Sections 323, 504, 506, 427, 406, 420 IPC and 3(1) (x) SC/ST Act was filed and after examination of witnesses the accused persons were summoned. The witnesses were examined and the petitioners were summoned by means of order dated 30.07.2005. The said summoning order dated 30.07.2005 was made subject matter of challenge in Criminal Miscellaneous Case No. 2178 of 2005 (under Section 482 Cr.PC) and this Court while adjudicating upon the validity of the summoning order proceeded to quash the complaint as well. The order of this Court was subjected to challenge in the apex court and the apex court while adjudicating upon the validity of the judgment of this Court disposed of the Criminal Appeal No. 348 of 2006 with the direction that the complaint may proceed in accordance with law and the quashing of the complaint by this Court was not proper. Thereafter the parties put in appearance before the court below and it is alleged that compromise was entered into between the parties at this juncture and applications were moved on

09.06.2006 and 07.12.2006 to compound the offence. The said applications are pending and nothing has been done and the petitioners submit that since the offence in the opinion of the trial court is not compoundable, the applications have not been decided and neither any order has been passed.

The learned counsel for the petitioners has placed reliance upon the decision reported in (2008) 4 SCC [Madan Mohan Abbot vs. State of Punjab] as well as an unreported decision of the apex court rendered in Criminal Appeal No. 1619 of 2008 arising out of SLP (Crl.) No. 5265 of 2007 [Manoj Sharma vs. State & others]. In the said cases uncompoundable offences have also been allowed to be compounded.

The learned counsel for the complainant also states that the offence may be compounded as the parties have entered into compromise.

The apex court while considering the question of compounding the offence in the case of Madan Mohan Abbot (supra) held in para5 as under :

"It is on the basis of this compromise that the application was filed in the High Court for quashing of proceedings which has been dismissed by the impugned order. We notice from a reading of the FIR and the other documents on record that the dispute was purely a personal one between two contesting parties and that it arose out of extensive business dealings between them and that there was absolutely no public policy involved in the nature of the allegations made against the accused. We are, therefore, of the opinion that no useful purpose would be served in continuing with the proceedings in the light of the compromise and also in the light of the fact that the complainant has on 1112004 passed away and the possibility of a conviction being recorded has thus to be ruled out."

The matter again engaged the attention of the apex court in the case of Manoj Sharma (supra) and in the said case as well the first information report under Sections 420, 468, 471, 34, 120B IPC was also taken into consideration on the basis of the compromise and the apex court accepting the compromise allowed the offence to be compounded. In the said case in para8, it was held as under :

"In our view, the High Court's refusal to exercise its jurisdiction under Article 226 of the Constitution for quashing the criminal proceedings cannot be supported. The First Information Report, which had been lodged by the complainant indicates a dispute between the complainant and the accused which is of a private nature. It is no doubt true that the First Information Report was the basis of the investigation by the Police authorities, but the dispute between the parties remained one of a personal nature. Once the complainant decided not to pursue the matter further, the High Court could have taken a more pragmatic view of the matter. We do not suggest that while exercising its powers under Article 226 of the Constitution the High Court could not have refused to quash the First Information Report, but what we do say is that the matter could have been considered by the High Court with greater pragmatism in the facts of the case. As we have indicated hereinbefore, the exercise of power under Section

482 Cr.P.C. Or Article 226 of the Constitution is discretionary to be exercised in the facts of each case."

In the present case, it is apparent that dispute is of personal nature interse between the two parties and both the parties have entered into compromise and the public at large is not being affected on account of the offence in question.

Considering the dictum of the apex court in the cases of Madan Mohan Abbot (supra) and Manoj Sharma (supra), I am of the opinion that the complaint is liable to be quashed in terms of the compromise arrived at between the parties.

This petition is, accordingly, allowed. The complaint contained in annexure no. 1 to the petition is quashed.

The parties to bear costs.