

Court No. - 88

Case :- APPLICATION U/S 482 No. - 398 of 2018

Applicant :- Dinesh Kumar Bharti And Another

Opposite Party :- State Of U.P. And 2 Others

Counsel for Applicant :- Sheo Ram Singh,Ravindra Kumar Yadav

Counsel for Opposite Party :- G.A.,Juned Alam

Hon'ble Vinod Diwakar,J.

1. Heard Shri Ravindra Kumar Yadav, learned counsel for the applicants, Shri Shiv Kumar, Advocate holding brief of Shri Juned Alam, learned counsel for opposite party nos. 2 and 3 and learned A.G.A. for the State-respondent.

2. The present application under Section 482 Cr.P.C. has been filed for quashing the entire proceedings of Criminal Case No. 52 of 2016, arising out of Case Crime No. 563 of 2015, under Sections 363, 366, 376, 504, 506 I.P.C. and Sections 3/4, 17 of POCSO Act, P.S. Tarkulwa, District Deoria, pending in the Court of Additional District Judge, Court No. 2, Deoria.

3. Learned counsel for the applicants submits that the applicant no. 1 and the opposite party no. 3 solemnized marriage on 03.07.2015 at Arya Samaj Temple, Allahabad, a certificate dated 03.07.2015 is also annexed with the petition to this effect. He submits that the mother of the victim has also lodged an FIR against applicants, which was registered as Case Crime No. 563 of 2015, under Sections 363, 366, 504, 506 I.P.C. read with Section 7/8 of POCSO Act on 25.07.2015. After conclusion of the investigation, the police has filed charge-sheet on 07.05.2016 and now the applicants received a summon to appear before the Court on 03.11.2023.

4. Learned counsel for the applicant further contends that applicant no. 1 Dinesh Kumar Bharti and opposite party no. 3-Sushmita Rai are living as husband and wife and three children are born out of the said wedlock.

5. Learned counsel for opposite party no. 3-wife has also appeared and he has no objection if the proceedings of aforesaid case are quashed. He submits that opposite party no. 3 and applicant no. 1 are living happily as husband and wife.

6. Since the parties to the litigation has solemnized marriage, and three children have also borne out of the said wedlock, no fruitful purpose would be served by permitting to continue the criminal case pending before the trial court and it would simply a waste of judicial time as chances of conviction are very bleak and thus no fruitful purpose would be served.

7. In view of **R.P. Kapur Vs. State of Punjab AIR 1960 SC 866** and in the case of **State of Haryana Vs. Bhajan Lal 1992 SCC(Cr.) 426**, the entire proceedings of Criminal Case No. 52 of 2016, arising out of Case Crime No. 563 of 2015, under Sections 363, 366, 376, 504, 506 I.P.C. and Sections 3/4, 17 of POCSO Act, P.S. Tarkulwa, District Deoria, pending in the Court of Additional District Judge, Court No. 2, Deoria, are hereby quashed.

8. The application is **allowed**.

Order Date :- 4.12.2023

Shafique

(Vinod Diwakar, J.)