

Court No. - 86

Case :- APPLICATION U/S 482 No. - 4104 of 2020

Applicant :- Ramchandrar Kushwaha And 4 Ors

Opposite Party :- State of U.P. and Another

Counsel for Applicant :- Upendra Kumar Mishra

Counsel for Opposite Party :- G.A., Sarvanand Pandey

Hon'ble Rajiv Gupta, J.

1. Heard learned counsel for the applicants, learned AGA for the State, Shri Sarvanand Pandey, learned counsel for the opposite party no.2 and perused the record.

2. This application under Section 482 Cr.P.C. has been filed by the applicants with the prayer to quash the charge sheet dated 23.10.2018 as well as entire proceedings of Case No. 1646 of 2018 (State Vs. Anil Kushwaha and others), arising out of Case Crime No. 0169 of 2018, under Sections 498-A, 323, 504, 506, 494 IPC and 3/4 D.P. Act, Police Station Turkipatti, District Kushinagar, pending in the court of Judicial Magistrate, Kasya, Kushinagar.

3. As per the allegations made in the first information report as well as the statement of the witnesses recorded under Section 161 Cr.P.C., it is alleged that opposite party no.2 was married to Anil Kushawaha about eight years back, however, after the said marriage, the applicants started making demand of additional dowry from the opposite party no.2 and for the non-fulfillment of demand of additional dowry, they used to torture her, maltreat her, beaten her and committed cruelty with her and she was also turned out of her matrimonial home and as such, the instant criminal case has been instituted against the applicants.

4. Learned counsel for the applicants has submitted that applicant nos.1 & 2 are the father-in-law and mother-in-law, applicant nos.3 & 4 are her brothers-in-law whereas applicant no.5 is the sister-in-law of the opposite party no.2.

5. Learned counsel for the applicants has next submitted that from allegations made in the first information report as well as the statement of the witnesses recorded under Sections 161 Cr.P.C., it is evident that no specific allegation

has been made against the applicants rather general, vague and omnibus allegations have been made against them. Even the allegation of performing the second marriage by Anil Kushwaha is highly vague and is based on hearsay.

6. Learned counsel for the applicants has next submitted that from perusal of the allegations made in the FIR and the material collected during the course of inquiry, no offence is disclosed against the applicants and the present case has been instituted with a malafide intention for the purpose of harassment, as such, the entire proceedings is liable to be quashed.

7. *Per contra*, learned AGA has submitted that from perusal of the allegations made in the FIR and the material collected during the course of inquiry, prima facie, offence is clearly made out against the applicants.

8. From the material collected during the course of inquiry also, it is evident that general, vague and omnibus allegations have been made against applicants and as such, it would be unjust if they are forced to go through tribulations of a trial, that is, general, vague and omnibus allegations cannot be manifest in a situation, where the relatives of the victim's husband are forced to undergo trial in view of law laid down by Hon'ble Apex Court in varied instances, that a criminal trial leading to an eventual acquittal also inflicts severe scars upon the accused and such an exercise must therefore be discouraged.

9. In view of aforesaid law laid down by the Hon'ble Apex Court in the cases of **Taramani Parak Vs. State of M.P. and Others, (2015) 11 SCC 260** and **Geeta Mehrotra and Another Vs. State of U.P. and Another, (2012) 10 SCC 741** and **Kahkashan Kausar @ Sonal Vs. State of Bihar (2022) 6 SCC 599**, the entire proceedings of the present case are hereby quashed in respect of the applicants.

10. This application under Section 482 Cr.P.C. is accordingly **allowed**.

Order Date :- 3.11.2023
RKM