

Court No. - 86

Case :- APPLICATION U/S 482 No. - 8934 of 2023

Applicant :- Smt. Shabnoor And 4 Others

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

Counsel for Applicant :- Vivek Dhaka

Counsel for Opposite Party :- G.A., Nafees Ahmad

Hon'ble Rajiv Gupta, J.

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

2. This application under Section 482 Cr.P.C. has been filed with the prayer to quash the charge-sheet dated 05.06.2022 and cognizance order dated 02.07.2022 as well as entire proceedings of Case Crime No. 298 of 2021, under Sections 498-A, 323, 504, 506, 406 IPC and Section 3/4 of Dowry Prohibition Act, Police Station Kharkhoda, District Meerut, pending in the court of Additional Chief Judicial Magistrate, Court No.5, Meerut.

3. Learned counsel for the applicants has submitted that applicant no.4 was married to sister of opposite party no.2 on 02.07.2021 and on account of matrimonial discord, the present criminal case was instituted against the applicants.

4. So far as the applicant nos.1 to 3 are concerned, learned counsel for the applicants has submitted that applicant nos.1 to 3 are the sister-in-law of sister of opposite party no.2 and no specific allegation has been made against them rather general, vague and omnibus allegations, just to drag them in criminal court has been alleged. As a matter of fact, they have no concern whatsoever with the day to day affairs between husband and wife and they have been falsely roped in the instant case only on account of being the family members of applicant no.4.

5. From the material collected during the course of investigation also, it is evident that general, vague and omnibus allegations have been made against applicant nos.1 to 3 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.

6. 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 applicant nos.1 to 3 only.

7. So far as the applicant no.4 Umardaraj (husband) is concerned, the instant application under Section 482 CrPC filed on his behalf, has already been dismissed by Co-ordinate Bench of this Court vide order dated 17.03.2023.

8. So far as the applicant no.5 Smt. Shabra (mother-in-law) is concerned, learned counsel for the applicants has submitted that from perusal of the allegations made in the FIR and the material collected during the course of investigation, no offence is disclosed against the applicant no.5 and the present case has been instituted with a malafide intention for the purpose of harassment, as such, the entire proceedings is also liable to be quashed against her

9. Per contra, learned AGA has submitted that from perusal of the allegations made in the FIR and the material collected during the course of investigation, prima facie, offence is clearly made out against the applicant no.5. Learned AGA has further submitted that specific allegation of assaulting her daughter-in-law by a knife has been made against applicant no.5.

10. Moreover, all the submissions made at the bar relates to the disputed question of fact, which cannot be adjudicated upon by this Court under Section 482 CrPC. At this stage, only prima facie case is to be seen in the light of the law laid down by the Hon'ble Apex Court in the cases of ***R.P. Kapur***

Vs. State of Punjab, AIR 1960 SC 866, State of Haryana Vs. Bhajan Lal, 1992 SCC (Cri.) 426, State of Bihar Vs. P.P. Sharma, 1992 SCC (Cri.) 192 and lastly Zandu Pharmaceutical Works Ltd. Vs. Mohd. Saraful Haq and another, (Para-10) 2005 SCC (Cri.) 283. The disputed defence of the accused cannot be considered at this stage.

11. Keeping in mind the specific allegation of assaulting the victim by a knife by applicant no.5, the prayer for quashing the entire proceedings as against the applicant no.5 is therefore refused.

12. However, in case the applicant no.5 appears before the court below within three weeks from today and seeks bail, her release be considered in view of law laid down by Hon'ble Apex Court in the case of ***Satender Kumar Antil Vs. Central Bureau of Investigation and another reported in (2022) 10 SCC 51.***

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

Order Date :- 16.11.2023

Nadim