

Court No. - 83

Case :- CRIMINAL APPEAL No. - 3191 of 2023

Appellant :- Rajan Devi

Respondent :- State of U.P. and Another

Counsel for Appellant :- Rahul Jain, Gaurav Maurya, Ravi Prakash Kushwaha

Counsel for Respondent :- G.A.

Hon'ble Sanjay Kumar Pachori, J.

Sri Rahul Jain, learned counsel for the appellant and Sri Moti Lal, learned A.G.A. for the State are present.

The present criminal appeal has been filed under Section 341 Cr.P.C. to set aside the order dated 06.02.2023 passed by Principal Judge, Family Court, Agra in Misc. Case No. 280 of 2023, by which the application under Section 341 Cr.P.C. has been rejected.

Brief facts of the case are that the appellant filed an application under Section 340 Cr.P.C. stating that the opposite party no.2 filed an affidavit with false averments in matrimonial Case No. 674 of 2019, under Section 13-A of the Hindu Marriage Act, wherein she has stated that on 21.01.2023 in another case, IVth Additional Chief Judicial Magistrate, Agra taken cognizance against the appellant but in fact the order was passed on 23.01.2023.

Learned counsel for the appellant submits that the opposite party no.2 has filed affidavit dated 21.01.2023 before the Principal Judge, Family Court Agra in a divorce case with a false statement that cognizance under Section 500 IPC has been passed on 20.01.2023 but in fact the cognizance order was passed on 23.01.2023.

A three Judge Bench of Hon'ble Supreme Court, in **Pritish vs. State of Maharashtra & Ors., (2002) 1 SCC 253** passed in **Criminal Appeal No. 1188 of 2001**, observed that the purpose of preliminary inquiry under Section 340(1) of Cr.P.C. was not to find whether a person is guilty or not but only to decide whether it was expedient in the interest of justice to inquire into the offence. It is further observed that Court is not obliged to make a preliminary inquiry on a complaint but if the court decides to do so, it should make a final set of the facts which is expedient in the interest of

justice that offence should be further probed into.

In view of the facts and circumstances of the case and keeping in mind the law laid down by the Supreme Court in **Pritish (Supra)**, the present criminal appeal deserves no merit and is liable to be dismissed.

Accordingly, the present criminal appeal is dismissed at the stage of admission.

Order Date :- 30.11.2023

MAA/-