

Court No. - 86

Case :- APPLICATION U/S 482 No. - 12225 of 2022

Applicant :- Amit Rawat And 2 Others

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

Counsel for Applicant :- Madan Kumar Tiwari

Counsel for Opposite Party :- G.A.,Gauri Shanker Mishra

Hon'ble Rajiv Gupta,J.

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

2. The present application under Section 482 Cr.P.C. has been filed with the prayer to quash impugned charge-sheet dated 29.07.2020 and entire proceedings of Case No. 4301 of 2020, arising out of Case Crime No. 125 of 2019, under Sections 498-A, 323, 406 IPC and Section 3/4 D.P. Act, Police Station Mahila Thana, District Aligarh, pending in the court of Civil Judge (J.D.)/FTC-Ist Court, Aligarh.

3. As per the allegations made in the first informant report, it is alleged that opposite party no.2 was married to applicant no.1 on 05.02.2010, however, after the said marriage, the applicants started demanding additional dowry from the opposite party no.2 and for non-fulfillment of the same, they started torturing and maltreating her and subjected her to cruelty and turned her out of her matrimonial home.

4. Learned counsel for the applicants has next submitted that the applicant no.1 has already been directed to be released on bail.

5. 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 applicants. He has pointed out certain documents and statements in support of his contention and has further submitted that the present case has been instituted with a mala fide intention for the purpose of harassment and as such, impugned charge-sheet as well as entire proceedings be quashed.

6. Per contra, learned AGA as well as learned counsel for opposite party no.2 have 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.1 and as such, impugned charge-sheet as well as entire proceedings cannot be quashed.

7. From perusal of the material on record and looking into the facts of the case, at this stage, it cannot be said that no offence is made out against the applicant no.1. All the submissions made at the bar relate to the disputed questions of fact, which cannot be adjudicated upon by this Court under Section 482 Cr.P.C.

8. At this stage, only prima facie case is to be seen in the light of the law laid down by ***Hon'ble Supreme Court in the cases of R.P. Kapur Vs. State of Punjab, A.I.R. 1960 S.C. 866, State of Haryana Vs. Bhajan Lal, 1992 SCC (Cr.) 426, State of Bihar Vs. P.P. Sharma, 1992 SCC (Cr.) 192 and lastly Zandu Pharmaceutical Works Ltd. Vs. Mohd. Saraful Haq and another, (Para-10) 2005 SCC (Cr.) 283.*** The disputed defence of the accused cannot be considered at this stage.

9. Moreover, the applicant no.1 had already been directed to be released on bail and he has got right of discharge under Section 239, 245 or 227 Cr.P.C., as the case may be, through a proper application for the said purpose and he is free to take all the submissions in the said discharge application before the trial court.

10. At this stage, this Court is not in a position to weigh the factual matrix of the case properly and accused has a right to file a discharge application before the trial court and the trial court may decide his discharge application, if there is no evidence against him.

11. The prayer for quashing the impugned charge-sheet as well as entire proceedings as against applicant no.1 is therefore refused.

12. However, it is directed that in case the applicant no.1 files an application for discharge before the court below, the same be considered and decided expeditiously in accordance with law after hearing the public prosecutor.

13. With the aforesaid directions, this application under Section 482 Cr.P.C. on behalf of applicant no.1 is finally

disposed of.

14. So far as the applicant nos. 2 and 3 are concerned, learned counsel for the applicants has next submitted that applicant nos. 2 and 3 are mother-in-law and father-in-law of opposite party no.2 respectively and no specific allegation has been made against them rather general and vague allegations, just to drag them in criminal court has been alleged. They, in fact, have no concern whatsoever with the day to day affairs between husband and wife and have been falsely roped in only on account of being the family members of her husband.

15. 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. 2 and 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.

16. In view of 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, Kahkashan Kausar @ Sonal Vs. State of Bihar (2022) 6 SCC 599 and Abhishek Vs. State of M.P., Criminal Appeal No. 1456 of 2023***, the aforesaid proceedings in respect of applicant nos. 2 and 3 are quashed.

17. This application under Section 482 Cr.P.C. is partly allowed by quashing the proceedings against the applicant no. 2 and 3 only.

Order Date :- 9.11.2023
Subham