

Court No. - 90

Case :- APPLICATION U/S 482 No. - 18466 of 2023

Applicant :- Sunita Jaiswal

Opposite Party :- State Of U.P. And 5 Others

Counsel for Applicant :- Ajit Kumar Singh

Counsel for Opposite Party :- G.A.

Hon'ble Dinesh Pathak,J.

1. Heard learned counsel for the applicant, learned AGA and perused the record.

2. The present application has been filed beseeching expeditious disposal of Criminal Case No. 368 of 2021 (State Vs. Santosh Jaiswal and other), arising out of Case Crime No. 406 of 2020, under Sections 498A, 323, 504, 506, 406 IPC and Section 3/4 DP Act, Police Station Saidpur, District Ghazipur pending in the court of Judicial Magistrate, Saidpur, Ghazipur.

3. This Court, vide order dated 21.9.2023, has directed to the present applicant to file supplementary affidavit appraising the Court with respect to the present status of the SLP. For ready reference, the order dated 21.9.2023 is quoted hereinbelow:-

"1. This Court, vide order dated 8.6.2023, has called for report with respect to the action taken against the accused (husband) to ensure his presence for the purpose of further proceeding in trial. In compliance of the order dated 8.6.2023, Judicial Magistrate, Court No. 1, Saidpur, District Ghazipur has submitted his report dated 17.7.2023 to the effect that proceeding against the husband has already been stayed by Hon'ble Supreme Court vide order dated 26.6.2023 passed in Special Leave Petition (Criminal) No. 7578 of 2023 (in brevity, SLP).

2. Learned counsel for the applicant submits that the aforesaid SLP is already dismissed by Hon'ble Supreme Court and there is no impediment in further trial against the husband.

3. There is nothing on the record to substantiate the submission as raised by the learned counsel for the applicant, who has prayed for and is granted two weeks' time to file a supplementary affidavit in this regard.

4. List this matter again on 10.10.2023 as fresh along with record of Application U/S 482 No. 31786 of 2022 (Madan Lal Jaiswal and 4 others Vs. State of UP and another). "

4. In pursuance of the order dated 21.9.2023, the applicant has filed supplementary affidavit today, which is taken on record.
5. In paragraph No. 3 of the supplementary affidavit, it has been averred that SLP No. 7578 of 2023 filed on behalf of Santosh Kumar Jaiswal (husband) has been dismissed vide order dated 28.8.2023. A copy of the order dated 28.8.2023 is annexed as Annexure No. 1 to the supplementary affidavit. It is apposite to mention that certified copy of the order dated 28.8.2023 passed by Hon'ble Apex Court in SLP No. 7578 of 2023 is already available in record of Crl. Misc. Application under Section 482 CrPC No. 31786 of 2022.
6. In view of the above, there is no impediment in proceeding with the criminal trial against Santosh Kumar Jaiswal (husband).
7. Learned trial court shall proceed with the matter by ensuring the presence of the accused Santosh Kumar Jaiswal.
8. Learned AGA has no objection, in case, a direction is issued for expeditious disposal of the aforesaid trial against the accused with whom respect the earlier application No. 31786 of 2022 was rejected.
9. In this conspectus, as above, no useful purpose would be served to keep this matter pending, therefore, this Court deems it appropriate to finally dispose of the present application, without making any observation on the merits of the case as mentioned in the present application, with a direction to court concerned before whom the aforementioned case is pending disposal, to initiate the trial against Santosh Kumar Jaiswal after ensuring his presence before the Court and conclude the same expeditiously, preferably, within a period of ten months from the date of receipt of a certified copy of this order.
10. It is expected that the matter should be decided by a reasoned and speaking order, in accordance with law, after affording opportunity of hearing to the parties concerned without granting unnecessary adjournments to either of the parties.
11. With the aforesaid direction, present writ petition is disposed of.

Order Date :- 19.10.2023

vinay