

Court No. - 86

Case :- APPLICATION U/S 482 No. - 19680 of 2022

Applicant :- Faiem Ahmad And 7 Others

Opposite Party :- State Of U.P. And Another

Counsel for Applicant :- Piyush Dubey

Counsel for Opposite Party :- G.A.,Saif Ullah

Hon'ble Rajiv Gupta,J.

1. Heard learned counsel for the applicants, learned AGA for the State, Shri Charan Singh, holding brief of Shri Saif Ullah, 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 summoning order dated 15.05.2019 as well as entire proceedings of Complaint Case No. 11 of 2018 (Smt. Arshi Vs. Faiem Ahmad and Others), under Sections 498-A, 323, 504, 506, 406 IPC and Section 3/4 of Dowry Prohibition Act, Police Station Mahila Thana, District Agra, pending in the court of Civil Judge (Jr. Div.)-II, Agra.

3. As per the allegations made in the complaint, it is alleged that applicant no.1 was married to opposite party no.2 on 08.11.2005, 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 and beaten her and committed cruelty with her and she was also turned out of her matrimonial home.

4. Learned counsel for the applicants has submitted that from perusal of the allegations made in the complaint 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.

5. Per contra, learned AGA has submitted that from perusal of the allegations made in the complaint and the material collected during the course of inquiry, prima facie, offence is clearly made out against the applicant no.1.

6. 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.

7. Considering the facts and circumstances of the case, so far as the applicant no.1 is concerned, the prayer for quashing the entire proceedings is refused.

8. However, in case the applicant no.1 appears before the court below within three weeks from today and seeks bail, his 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***.

9. With the aforesaid observation, the instant application under Section 482 CrPC on behalf of applicant no.1 is finally disposed of.

10. So far as the applicant nos.2 to 8 are concerned, learned counsel for the applicants has further submitted that applicant no.2 is the mother-in-law, applicant nos.3 & 4 are the brothers-in-law, applicant no.6 is the sister-in-law 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.1.

11. From the material collected during the course of inquiry also, it is evident that general, vague and omnibus allegations have been made against applicant nos.2 to 8 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.

12. 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.2 to 8 only.

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

Order Date :- 27.10.2023

Nadim