

Court No. - 86

Case :- APPLICATION U/S 482 No. - 23004 of 2022

Applicant :- Gayasuddin And 2 Others

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

Counsel for Applicant :- Shriprakash Shrivastava

Counsel for Opposite Party :- G.A., Chhote

Bind, Santosh Singh, Uday Shankar Tiwari

Hon'ble Rajiv Gupta, J.

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

2. The present application under Section 482 Cr.P.C. has been filed for quashing summoning order dated 08.04.2022 as well as entire proceedings of Complaint Case No.7495 of 2021 (Jainntun Nisha @ Jaitun Nisha Vs. Gayasuddin and others), under Sections 498-A, 323, 504 IPC and Section 3/4 D.P. Act, P.S. Jataha Bazar, District Kushi Nagar.

3. As per the allegations made in the complaint, it is alleged that opposite party no. 2 was married to applicant no. 1 on 03.04.2007. Applicant no.2 and 3 are the parents-in-law of opposite party no. 2, however, after the said marriage, the applicants started demanding additional dowry and for non-fulfilment of demand of additional dowry, 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 submitted that from the perusal of the allegations made in the complaint and the material collected during the course of enquiry, no offence is disclosed against the applicants and the present prosecution has been instituted with a malafide intention for the purposes of harassment. He has pointed out certain documents and statements in support of his contention.

5. Per contra, learned AGA as well learned counsel for opposite party no.2 have submitted that from the perusal of the allegations made in the complaint and the material collected during the course of enquiry, prima facie offence

is clearly made out against 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 applicant no. 1 is concerned, looking to the specific allegations made against him, the prayer for quashing the entire proceedings is refused.

8. However, in case applicant no. 1 appears before the court below within three weeks from today and applies for bail, his bail application be considered and disposed of 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** after hearing the parties.

9. With the aforesaid observation, the instant application on behalf of applicant no. 1 stands disposed of.

10. 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 the father-in-law and mother-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. As a matter of fact, they 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.

11. From the material collected during the course of enquiry, 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 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 law laid down by the Hon'ble Apex Court in the case 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.

13. This application under Section 482 Cr.P.C. is partly allowed by quashing the proceedings against applicant nos. 2 and 3 only.

Order Date :- 9.11.2023
Subham