

Court No. - 86

Case :- APPLICATION U/S 482 No. - 23951 of 2023

Applicant :- Kartikey Srivastava

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

Counsel for Applicant :- Mahesh Kumar

Counsel for Opposite Party :- G.A.,Kartikeya Saran,Syed Mushfiq Ali

Hon'ble Rajiv Gupta,J.

1. Heard learned counsel for the applicant, learned AGA for the State, Shri Kartikeya Saran, learned counsel for opposite party no.2 and perused the records.

2. This application under Section 482 Cr.P.C. has been filed by the applicants with the prayer to quash entire proceedings of Criminal Case No. 15589 of 2021 (State Vs. Kartikey Srivastava and another), arising out of Case Crime No. 119 of 2021, under Sections 498-A, 323, 504, 506 IPC and Section 3/4 of the D.P. Act, Police Station Sipri Bajar, District Jhansi, pending in the court of Chief Judicial Magistrate, Jhansi.

3. Pursuant to the order of this Court dated 09.11.2023, the applicant and opposite party no.2 have appeared before this Court in-person and the matter has been taken up in their presence.

4. Learned counsel for the applicant has submitted that opposite party no.2 is the wife of the applicant. He has further submitted that on account of matrimonial discord, present criminal case has been instituted against the applicant by opposite party no.2, however subsequently, with the intervention of respected members of both the families, applicant and the opposite party no.2 have amicably and genuinely settled all their disputes and differences and now they do not have any grievance against each other.

5. Learned counsel for the applicant has next drawn the attention of this Court to a compromise deed dated 19.09.2023, drawn between the parties, a copy of which has been annexed as Annexure SA-1 to the supplementary

affidavit.

6. Learned counsel for the applicant has next submitted that in view of the said compromise and in order to maintain harmonious and cordial relations between the parties, entire proceedings against the applicants be quashed.

7. Learned counsel for the applicant has further informed this Court that the applicant Kartikey Srivastava as well as opposite party no.2 Shanu Srivastava have jointly filed a petition being Case No.167 of 2023, under Section 13B of the Hindu Marriage Act for a decree of divorce on the basis of mutual consent, a copy of which has been annexed as Annexure-6 to this application.

8. Learned counsel for the applicant has further submitted that the applicant, who is present in Court today, undertakes to appear before the court below in the aforesaid Case No. 167 of 2023, under Sections 13B of Hindu Marriage Act on 21.11.2023, date fixed in the case, so that the said case may also be disposed of, on the basis of mutual consent between the parties.

9. Learned counsel for opposite party no.2 has also appeared and has filed a counter affidavit as well as supplementary counter affidavit and in paragraph 6 of the supplementary counter affidavit, the factum of compromise deed dated 19.09.2023 has been acknowledged. Learned counsel for opposite party no.2 has further stated, on instruction, that opposite party no.2 has no objection if the instant proceedings are quashed.

10. Opposite party no.2, who is also present in the Court today, has also given an undertaking that she will also appear before the court below on 21.11.2023, where Case No. 167 of 2023, under Section 13B of the Hindu Marriage Act is pending so that the said case may also be disposed of, by the competent court.

11. Learned AGA could not dispute the aforesaid facts.

12. This Court is not unmindful of the judgements of the Apex Court in the cases of:-

(i). B.S. Joshi and others Vs. State of Haryana and another (2003) 4 SCC 675.

(ii). Nikhil Merchant Vs. Central Bureau of Investigation [2008) 9 SCC 677].

(iii). Manoj Sharma Vs. State and others (2008) 16 SCC 1.

(iv). Gian Singh Vs. State of Punjab (2012) 10 SCC 303.

(v). Narindra Singh and others Vs. State of Punjab (2014) 6 SCC 466.

Wherein the Apex Court has categorically held that compromise can be made between the parties even in respect of certain cognizable and non compoundable offences. Reference may also be made to the decision given by this Court in ***Shaifullah and others Vs. State of U.P. and another [2013 (83) ACC 278]***, in which, law expounded by Hon'ble Apex Court in the aforesaid cases has been explained in detail.

13. Considering the facts and circumstances of the case, as noted herein above, and also the submissions made by learned counsel for the parties, this Court is of the considered opinion that no useful purpose would be served by prolonging the proceedings of the above mentioned case.

14. Accordingly, the entire proceedings of Criminal Case No. 15589 of 2021 (State Vs. Kartikey Srivastava and another), arising out of Case Crime No. 119 of 2021, under Sections 498-A, 323, 504, 506 IPC and Section 3/4 of the D.P. Act, Police Station Sipri Bajar, District Jhansi, pending in the court of Chief Judicial Magistrate, Jhansi, are hereby quashed.

15. In case of default by the parties in their appearance before the court below in Case No. 167 of 2023, filed under Section 13B of the Hindu Marriage Act, it shall be open for the parties to approach this Court for recall of this order.

16. This application under Section 482 CrPC is accordingly **allowed.**

Order Date :- 20.11.2023
Subham