

Court No. - 86

Case :- APPLICATION U/S 482 No. - 27808 of 2022

Applicant :- Abdullah

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

Counsel for Applicant :- Navneet Kumar, Mohd. Monis

Counsel for Opposite Party :- G.A.

Hon'ble Rajiv Gupta, J.

1. Heard learned counsel for the applicant, learned AGA for the State and perused the record.
2. Though notice has been served upon opposite party no.2, however, yet no one has appeared on her behalf nor has filed any counter affidavit.
3. The present application under Section 482 Cr.P.C. has been filed for quashing summoning order dated 05.02.2019 and NBW order dated 24.06.2022 as well as entire proceedings of Complaint Case No. 2748 of 2018 (Smt. Shabra Khatoon Vs. Abdul Rahman and others), under Sections 498-A, 323, 504, 506 and 452 IPC and Section 3/4 D.P. Act, P.S. Kubersthan, District Kushinagar, pending in the court of Additional Chief Judicial Magistrate, Kasya, District Kushinagar.
4. As per the allegations made in the complaint, it is alleged that opposite party no. 2 was married to Abdul Rahman, brother of the applicant on 04.04.2013, however, after the said marriage, the applicant along with her husband and other family members 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.
5. Learned counsel for the applicant has submitted that from the perusal of the allegations made in the complaint and the material collected during the course of enquiry as well as statement of the witnesses recorded under Section 200 and 202 Cr.P.C., no offence is disclosed against the applicant 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.

6. Learned counsel for the applicants has next submitted that no specific allegation has been made against the applicant rather general and vague allegations, just to drag him in criminal court has been alleged. As a matter of fact, he has no concern whatsoever with the day to day affairs between husband and wife and has been falsely roped in only on account of being the brother of her husband

7. Per contra, learned AGA has submitted that from the perusal of the allegations made in the complaint, the material collected during the course of enquiry as well as statement of the witnesses recorded under Section 200 and 202 Cr.P.C., prima facie offence is clearly made out against applicant.

8. From the material collected during the course of enquiry also, it is evident that general, vague and omnibus allegations have been made against the applicant, who is brother-in-law of opposite party no.2 and as such, it would be unjust if he is forced to go through tribulations of a trial, that is, general, vague and omnibus allegations cannot be manifest in a situation, where the relative of the victim's husband is 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.

9. 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, 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 the applicant is quashed.

10. This application under Section 482 Cr.P.C. is allowed and the entire proceedings stands quashed on behalf of the applicant.

Order Date :- 19.10.2023

Subham