

Court No. - 45

Case :- CRIMINAL MISC. WRIT PETITION No. - 12664 of 2022

Petitioner :- Mohtassim Urf Ashu And 4 Others

Respondent :- State Of U.P. And 2 Others

Counsel for Petitioner :- Irshad Ahmad, Imran Mabood Khan, Krishna Kumar Singh

Counsel for Respondent :- G.A., Avaneesh Kumar Singh, Meraj Ahmad Khan, Sayyed Kashif Abbas Rizvi

Hon'ble Vivek Kumar Birla, J.

Hon'ble Vinod Diwakar, J.

1. Heard Shri K.K. Singh, learned counsel for the petitioners, learned A.G.A. appearing for the State respondents and Shri Avaneesh Kumar Singh, learned counsel appearing for the respondent no. 3.

2. This writ petition has been filed praying to quash the impugned First Information Report dated 12.08.2022 registered as Case Crime No. 0472 of 2022, under Sections 498-A, 323, 376 IPC, Section 3/4 of D.P. Act and Section 3/4 of Muslim Women (Protection of Rights on Marriage) Act, 2019, P.S. Katghar, District Moradabad.

3. Vide order dated 20.11.2023 the matter was referred to the mediation centre.

4. Perused the office report dated 30.11.2023 and the settlement agreement dated 28.11.2023 which indicates that matter has been peacefully settled between the parties and they have settled their differences on the terms mentioned in paragraph 7 of the settlement agreement dated 28.11.2023. The paragraph 7 is quoted as under:-

"7. The following settlement has been arrived at between the Parties hereto:-

a) That the parties have already taken Talaq and in this regard they have produced a notarized Samjhautanama dated 25.11.2023 and the terms and conditions mentioned therein have been fulfilled by the parties. They further reiterate and reaffirm the terms and conditions of the aforesaid Samjhautanama and the same shall be a part of this settlement also. The notarized copy of the aforesaid Samjhautanama is being annexed to this

settlement- agreement for kind perusal of the Hon'ble Court.

b) That it has been agreed between the parties that the petitioner no. 1-husband shall pay an amount of Rs.6,00,000/- (Rupees Six Lakhs only) to the wife, which includes the amount of Mehar, Iddat Period and Maintenance of the Respondent No. 3-wife.

c) That as mentioned in para 3 of the aforesaid Samjhautanana dated 25.11.2023, the petitioner no. 1-husband has already paid aforesaid amount i.e. Rs. 6,00,000/- (Rupees Six Lakhs only) to the respondent no. 3-wife and she has acknowledged the receipt of the same.

d) That as mentioned in para 5 of the aforesaid Samjhautanama dated 25.11.2023, the respondent no. 3-wife shall not claim any financial assistance/maintenance from the petitioner no. 1-husband in future in any manner whatsoever.

e) That it has also been agreed between the parties that all civil and criminal cases filed by them against each other regarding present matrimonial dispute shall be withdrawn by the parties concerned by taking appropriate steps before the Court/authority concerned.

f) That the parties will not file any fresh case against each other in respect of this matrimonial dispute. They have no claim against each other in future also

g) That it has been agreed between the parties that they shall not violate the terms and conditions of this settlement otherwise the aggrieved party will be free to take legal recourse."

5. It is submitted that as between the parties compromise had already taken place therefore, the impugned First Information Report dated 12.08.2022 registered as Case Crime No. 0472 of 2022, under Sections 498-A, 323, 376 IPC, Section 3/4 of D.P. Act and Section 3/4 of Muslim Women (Protection of Rights on Marriage) Act, 2019, P.S. Katghar, District Moradabad is liable to be quashed.

6. Undisputedly, the present dispute is a matrimonial dispute, although allegations under Section 376 I.P.C. have also been levelled, however, in view of the settlement between the parties, we find that there are extremely weak changes of conviction in case the criminal prosecution proceeds. Therefore, in all the fitness of things, we find that impugned FIR under Section 376 I.P.C. are also liable to be quashed.

7. Thus, in view of the well settled principles of law as laid down by the Hon'ble Apex Court reported in **2003(4) SCC 675 (B.S. Joshi Vs. State of Haryana)**, **J.T. 2008(9) SC 192 (Nikhil Merchant Vs. Central Bureau of investigation and another)**,

(2012) 10 SCC 303 (Gian Singh Vs. State of Punjab), (2014) 9 SCC 653 (Yogendra Yadav and others Vs. State of Jharkhand) and also (2014) 6 SCC 466 (Narendra Singh Vs. State of Punjab), and in view of the settlement agreement dated 28.11.2023, the First Information Report dated 12.08.2022 registered as Case Crime No. 0472 of 2022, under Sections 498-A, 323, 376 IPC, Section 3/4 of D.P. Act and Section 3/4 of Muslim Women (Protection of Rights on Marriage) Act, 2019, P.S. Katghar, District Moradabad, is hereby quashed.

8. The present petition is, accordingly, allowed.

Order Date :- 30.11.2023

Shafique