

Court No. - 91

Case :- APPLICATION U/S 482 No. - 42688 of 2012

Applicant :- Sudarshan Chaubey And Another

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

Counsel for Applicant :- S.S. Tripathi,A.P. Tewari

Counsel for Opposite Party :- Govt. Advocate,Janardan Yadav,Nisar Uddin

Hon'ble Gajendra Kumar,J.

1. Heard learned counsel for the applicants and learned AGA for the state.

2. This application under Section 482 Cr.P.C. has been filed with the prayer to quash the entire proceeding of criminal case No.4244 of 2012 arising out of case crime No.537 of 2012, under Sections 363, 366, 376, 506 IPC, Police Station-Kotwali, District-Mau pursuant to impugned charge-sheet dated 11.07.2012 as well as to quash the impugned order dated 11.09.2012.

3. Vide order dated 17.02.2022, a co-ordinate Bench of this Court has passed the following order, which reads as follows:-

"Heard learned counsel for the applicants and learned A.G.A. for the State.

It is argued by the learned counsel for the applicants that as per report of C.M.O., the girl- Mandawi was major on the date of her marriage with Chandra Prakash @ Chandra Kant Chaubey on 06.08.2012. The girl had appeared earlier before the Division Bench of this Court on 18.06.2012 and asserted herself to be major but as no proof of the age was on record so she was directed to be medically examined and thereafter the magistrate was directed to pass appropriate order in the matter. As per the medical examination report, the girl was found to be major. Her marriage certificate and the documents regarding marriage registration are on record. The girl-Mandawi is living with application no.2 for about the last 10 years and she is having two children out of this wedlock so the prayer for quashing the further proceedings of Criminal Case No.4244 of 2012, arising out of Case Crime No.537 of 2012, under Sections 363, 366, 376, 506 I.P.C., Police Station Kotwali, District Mau and cognizance order dated 11.09.2012 is made.

It is argued by the learned A.G.A. that as per High School Mark-sheet the girl was minor on the date of her marriage as in the High School Mark-sheet the date of birth is mentioned as 10.07.1995 and the marriage is said to have been solemnized on 06.08.2012. In the marriage certificate wrong date of birth has been mentioned. As the girl was not even 17 years of age at the time

of marriage so the applicants are not entitled for any relief.

After going through the record, it is found that neither the first information report nor the statement of the girl under section 164 Cr.P.C. are on record.

Learned counsel for the applicants is directed to file the said documents on record before the date fixed.

List on 22.03.2022.

Interim order, if any, is extended till the next date of listing".

4. Learned counsel for the applicants submits that they have been falsely implicated in the present case due to ulterior motive. It is further submitted that applicant no.1 is father of applicant No.2 and applicant no.2 is son-in-law of opposite party no.2. Smt. Madvi (daughter of opposite party no.2) is wife of applicant no.2. They are major and have solemnized their marriage and living together as husband and wife for more than last ten years and are blessed with two children. They also got their marriage registered on 26.10.2012.

5. On the other hand, learned AGA for the State opposed the aforesaid submission but could not dispute the aforesaid fact on record.

6. Having heard learned counsel for the parties and perusal of records, it appears that both the parties are living their life happily as husband and wife for more than ten years; they have blessed with two children; there is no chance of recording conviction in this case, as such, continuation of the proceedings of the aforesaid case will be an abuse of process of law. No fruitful purpose would be served by keeping the matter pending in view of the judgments of Hon'ble Apex Court in the case of **Gian Singh vs. State of Punjab, (2012), 10 SCC 303, B.S. Joshi and others vs. State of Haryana and another, (2003) 4 SCC 675 and Madan Mohan Abbot vs. State of Punjab, (2008) 4 SCC 582.**

7. In all the aforesaid cases, the Apex Court has laid down the law that criminal proceedings may be quashed even in non-compoundable cases by the High Court in exercise of its extraordinary jurisdiction to restore peace between the parties and if there is no chance of recording conviction and in case the justice so demands. According to Hon'ble Supreme Court, if the offence involve private dispute between the parties of commercial nature or matrimonial dispute and it is not related to heinous offence, the proceedings may be quashed.

8. Since both the parties are living their life happily for more than ten years as husband and wife, blessed with two children, no fruitful purpose would be served by permitting to continue the criminal case pending before the trial court and it would simply be a waste of time if the aforesaid case is permitted to continue till its logical conclusion.

9. In view of the above, the Application u/s 482 Cr.P.C. succeeds and is **allowed**.

10. The entire proceeding of criminal case No.4244 of 2012 arising out of case crime No.537 of 2012, under Sections 363, 366, 376, 506 IPC, Police Station-Kotwali, District-Mau in pursuance of the applicants are, hereby, quashed.

Order Date :- 17.11.2023

Ashutosh