

Court No. - 92

Case :- APPLICATION U/S 482 No. - 31841 of 2016

Applicant :- Rahul Tripathi And 3 Others

Opposite Party :- State Of U.P. And Anothr.

Counsel for Applicant :- Sheshadri Trivedi, Ajay Kumar Pandey, Chandra Prakash Awasthi, Satish Trivedi

Counsel for Opposite Party :- G.A., Brij Raj

Hon'ble Anish Kumar Gupta, J.

1. Heard Sri Chandra Prakash Awasthi, learned counsel for the applicants and Sri Rajeev Kumar Singh, learned AGA for the State. None is present for the opposite party no.2, though the name of Brij Raj is shown as counsel for the opposite party no.2.

2. On 21.10.2016, this Court referred the matter for mediation between the parties on deposit of Rs. 30,000/- by the applicants herein.

3. Learned counsel for the applicants submits that in terms of the aforesaid order dated 21.10.2016, the applicants had deposited a sum of Rs. 30,000/- before the Mediation Centre on 03.11.2016, upon which the mediation proceedings were initiated. However, the mediation could not proceed as the opposite party no.2 failed to appear before the Mediation Centre and the report of Mediation Centre dated 07.05.2017 is available on record. Learned counsel for the applicants submits that subsequent to the failure of mediation between the parties, the parties have entered into a compromise dated 13.12.2017 outside the Court and in terms of the said compromise, which has been annexed as annexure- SA-1 to the Supplementary affidavit dated 18.08.2023. In terms of the said settlement, a demand draft of Rs. 3 lacs was paid to the opposite party no.2 in full and final settlement between the parties and on the basis of said settlement, the parties have filed an application for dissolution of marriage between the parties under Section 13-B of the Hindu Marriage Act, which has been decreed vide decree dated 14.01.2019.

4. Since it was a matrimonial dispute and the same has been settled between the parties outside the Court and the compromise was executed between the parties, which has already been acted upon and the decree of divorce has already been granted to the parties

on 14.01.2019. The amount of Rs. 3 lacs has already been paid to the opposite party no.2, therefore in the considered opinion of this Court, the instant prosecution against the applicants herein is liable to be quashed in the light of the judgment of Apex court in the cases of **B.S. Joshi and others vs. State of Haryana and anotehr, (2003) 4 SCC 675, Gian Singh vs. State of Punjab (2012) 10 SCC 303, Narindra Singh and others vs. State of Punjab (2014) 6 SCC 466 and Prabatbhai Aahir alias Prabatbhai Bhimsinghbhai Karmur and others vs. State of Gujarat and Another, (2017) 9 SCC 641.**

5. Accordingly, the instant application is **disposed of** on the basis of compromise between the parties and decree of divorce dated 14.01.2019 and the entire proceedings of Case No. 3105 of 2016 (State vs. Rahul Tripathi and others) arising out of Case Crime No. 12 of 2015 under Sections 498-A, 323, 504, 506 IPC and Section 3/4 Dowry Prohibition Act, P.S. Mahila Thana, District Varanasi, pending in the Court of Additional Chief Judicial Magistrate-III, Varanasi, are hereby quashed. The amount of Rs. 30,000/-, which was deposited by the applicants pursuant to the order dated 21.10.2016 before the Mediation Centre, is directed to be refunded to the applicants herein as the opposite party no.2 had failed to appear before the Mediation Centre.

Order Date :- 23.11.2023
Ashish Pd.