

Court No. - 87

Case :- APPLICATION U/S 482 No. - 31450 of 2023

Applicant :- Kapil Kumar Saini And 3 Others

Opposite Party :- State of U.P.

Counsel for Applicant :- Sunil Kumar Upadhyay

Counsel for Opposite Party :- G.A.

Hon'ble Neeraj Tiwari,J.

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

2. The present 482 Cr.P.C. application has been filed to quash the charge sheet dated 30.12.2004, cognizance order dated 15.02.2005 as well as entire proceedings of Criminal Case No. 5613 of 2009(State Vs. Kapil and others), arising out of Case Crime No. 110 of 2004, under Sections- 498A, 323, 504, 506 I.P.C. & 3/4 of D.P. Act, Police Station- Mahila Thana, District- Moradabad, pending in the court of Civil Judge(J.D.), F.T.C. (Crime Against Women), Moradabad.

3. Learned counsel for the applicants submitted that apart from present case, another criminal proceeding is also pending between the same parties, being Criminal Case No. 951 of 2008, under Section 406 IPC, which was challenged by filing Application U/s 482 Cr.P.C. No. 1456 2009(Kapil Kumar Vs. State of U.P. And Another), in which the matter was referred for mediation and, ultimately, it became successful by way of settlement agreement dated 01.07.2009. He next submitted that Application U/s 482 Cr.P.C. No. 1456 2009 was allowed by this Court vide order dated 10.02.2010 on the basis of settlement agreement dated 01.07.2009. He next submitted that on the basis of agreement between the parties, divorce petition under Section 13B of Hindu Marriage Act, 1955 has also been filed by applicant No. 1 and opposite party No. 2 and as on date they both are living separately. He next submitted that in light of settlement agreement dated 01.07.2009 entered between the parties as well as order dated 10.02.2010 passed in Application U/s 482 Cr.P.C. No. 1456 2009 present criminal proceeding may also be quashed.

4. Learned A.G.A. could not dispute the aforesaid facts.

5. In view of the facts and circumstances of the case, the applicants and opposite party no. 2 do not want to pursue the case any further as stated by them. The matter has been mutually settled between the parties, therefore, no useful purpose would be served in proceeding with the matter further.

6. Thus in view of the well settled principle of law as laid down by the Hon'ble Apex Court in the matters of **Krishnappa & Ors. vs. State of Karnataka; 2021 0 Supreme(SC) 529, Parbatbhai Aahir @ Parbatbhai Bhimsinhbhai Karmur and Ors. vs. State of Gujarat and another; 2017 9 SCC 641, B.S. Joshi Vs. State of Haryana; 2003(4) SCC 675, Nikhil Merchant Vs. Central Burea of Investigation and another; (2008) 9 Supreme Court Cases 677, Gian Singh Vs. Stated of Punjab; (2012) 10 SCC 303 and Narinder Singh & others Vs. State of Punjab and another; (2014) Supreme Today 642**, the proceedings of the aforesaid case is hereby quashed.

7. The present application is, accordingly **allowed**.

8. No order as to costs.

9. As the application is being decided at the fresh stage, it is open for opposite party No. 2 file recall application if there is concealment of any fact by the applicants.

Order Date :- 29.11.2023

ADY