

Court No. - 92

Case :- APPLICATION U/S 482 No. - 35958 of 2015

Applicant :- Mohd. Saheban Husband And 6 Others

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

Counsel for Applicant :- Istyak Khan

Counsel for Opposite Party :- G.A.,Brij Gopal Yadav,Rajendra Kumar Yadav

Hon'ble Anish Kumar Gupta,J.

1. Heard Shri Istyak Khan, learned counsel for the applicants, Shri Rajendra Kumar Yadav, learned counsel for the opposite party no. 2 and Shri Akhilesh Kumar Srivastava, learned A.G.A. on behalf of the State.

2. The instant application under section 482 Cr.P.C. has been filed seeking quashing of the summoning order dated 6.5.2014 passed by Mahanagar Magistrate IVth, Kanpur Nagar as well as entire proceedings of Case No. 1955 of 2013 (Parveen Begum Vs. Saheban and others) under section 498-A, 323, 504, 506 I.P.C. and Section 3/4 of Dowry Prohibition Act, police station Mahila Thana District Kanpur Nagar pending in the court of Mahanagar Magistrate IVth Kanpur Nagar.

3. Learned counsel for the applicant submits that this is a matrimonial dispute between the parties and vide order dated 6.1.2016 the matter was referred to the mediation. However, as per mediation report the applicant was present but the opposite party no. 2 failed to appear in the mediation, therefore, mediation proceedings could not be initiated. The applicant has also deposited the amount of Rs.10,000/- in terms of the order dated 6.1.2016 passed by this Court. Learned counsel for the applicant further submits that in this case entire family members have been implicated as accused by the opposite party no. 2 on the basis of general allegations against all the accused persons. Learned counsel for the applicant further submits that in the instant case after investigation, final report was submitted and on protest petition filed by the opposite party no. 2 the applicants have been summoned by the learned Magistrate.

4. Learned counsel for the opposite party no. 2 submits that during the investigation there were some mediation between the parties and the matter was settled and after the opposite party no. 2 started residing with the applicant no. 1 after settlement again all the

applicants started harassing and torturing the opposite party no. 2 for demand of dowry. Therefore, the protest petition was filed on 2.9.2013 and after recording the statement of the witnesses under section 200 and 202 Cr.P.C., learned Magistrate has summoned the applicants. It is further submitted that from the allegations made in the F.I.R. as well as in the protest petition and statements recorded under Section 200 and 202 Cr.P.C. it is clear that prima-facie a case is made out against the applicant, therefore, no interference is called for.

5. Learned A.G.A. for the State also submits that the final report was submitted on the basis of the settlement between the parties. However, despite the settlement again the applicants started torturing and harassing the opposite party no. 2 for demand of dowry, therefore, no interference is called for by this court.

6. This court has carefully perused the record and considered the rival submissions of the learned counsel for the parties. From perusal of the F.I.R. it is apparent that clear and categorical allegations have been made against all the applicants and on the allegations so made prima-facie a case is made out against the applicants. However, on compromise the final report was submitted and even after this compromise between the parties, the applicants have again started torturing and harassing the opposite party no. 2 for demand of dowry, as narrated in the protest petition, which is duly supported by the statements under sections 200 and 202 Cr.P.C. Therefore, in the considered opinion of this court, it cannot be said that there is any apparent error or illegality in the impugned summoning order dated 6.5.2014.

7. For the aforesaid reasons the instant application is devoid of merit and is hereby **dismissed**.

8. The mediation center is directed to refund the amount of Rs.10,000/- to the applicant no. 1 which he has deposited in terms of the order dated 6.1.2016 of this Court.

Order Date :- 21.11.2023

o.k.