

Court No. - 92

Case :- APPLICATION U/S 482 No. - 32655 of 2023

Applicant :- Arvind Kumar Gupta @ Arvind Gupta And 2 Others

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

Counsel for Applicant :- Manoj Yadav

Counsel for Opposite Party :- G.A.

Hon'ble Anish Kumar Gupta,J.

1. Heard Sri Manoj Yadav, learned counsel for the applicants and Sri Kamlesh Kumar Tripathi, learned AGA appearing for the State.

2. The instant application has been filed seeking quashing of the summoning order dated 14.07.2023 passed by Civil Judge (J.D.)/Judicial Magistrate, Court No.1, Mohammadabad, District Ghazipur in Criminal Complaint Case No. 792 of 2023 (Poonam Devi vs. Arvind Kumar Gupta and others) under Sections 498-A, 147, 323, 504, 506 IPC and 3/4 Dowry Prohibition Act, P.S. Mohammadabad, District Ghazipur, pending in the Court of Civil Judge (J.D.)/Judicial Magistrate, Court No.1, Mohammadabad, District Ghazipur.

3. Learned counsel for the applicants submits that in the instant case, on the date of marriage itself, the applicants came to know about the earlier marriage of the opposite party no.2, therefore, the marriage could not be solemnized and the Barat came back. When the applicants pressurized the opposite party no.2 and his family members to return the articles, which were given on behalf of the applicants to the opposite party no.2 before marriage, then the instant complaint has been lodged on the basis of false and fabricated facts. Learned counsel for the applicants further submits that in the instant case, the learned Magistrate vide order dated 14.07.2023 has taken cognizance in the matter mechanically against all the applicants herein whereas in the complaint, only general allegations have been made with regard to demand of dowry and this is case of no injury at all to the opposite party no.2. Therefore, Learned counsel for the applicants has prayed for quashing of the entire proceeding of the said complaint case as well as the summoning order.

4. Learned counsel for the State submits that the averments, which have been made in the instant application made by the

applicants with regard to non-solemnization of marriage by the applicant no.1 with the opposite party no.2. is not supported by any document. Therefore, prima facie, on the basis of the averments made in the complaint, it cannot be said that no offence is made out against the applicants. Learned counsel for the State further submits that while passing the summoning order against the applicants herein, the learned Trial Court has considered the judgment of of Hon'ble Supreme Court in **Geeta Mehrotra and another versus State of Uttar Pradesh, (2012) 10 SCC 741** and has exonerated the other family members of the applicants. Therefore, no interference is called for in the instant case by this Court.

5. Having heard the rival submissions made by learned counsel for the parties, this Court has carefully gone through the record of the case specifically the complaint and the statements recorded under Section 200 and 202 Cr.P.c. From perusal of the statement of the victim/opposite party no.2, it appears that the primary allegation of assault and dowry etc. is made out against the applicant no.1. However, other independent witnesses, who have been examined, categorically mentioned that the demand of motorcycle was made by the applicants and they had tortured the victim for not fulfilling the demand of dowry. Therefore, there is prima facie material available against all the applicants with regard to the allegations made in the complaint made by the opposite party no.2 against the applicants.

6. In view thereof, this Court does not find any illegality in the impugned order dated 14.07.2023 passed by the learned Civil Judge (J.D.)/Judicial Magistrate, Court No.1, Mohammadabad, District Ghazipur against the applicants. Therefore, the instant application is devoid of merits and is hereby **dismissed**.

Order Date :- 31.10.2023
Ashish Pd.