Court No. - 88

Case :- APPLICATION U/S 482 No. - 32650 of 2023

Applicant :- Satendra Kumar Chauhan
Opposite Party :- State Of U.P. And 3 Others
Counsel for Applicant :- Vijay Kumar Srivastava
Counsel for Opposite Party :- G.A.,Rajesh Yadav

Hon'ble Sanjay Kumar Singh,J.

1-Heard Mr. Vijay Kumar Srivastava, learned counsel for the applicant, learned Additional Government Advocate for the State of U.P./opposite party no.1, Mr. Rajesh Yadav, learned counsel appearing on behalf of opposite party no. 4/first-informant and perused the record.

2-This application under Section 482 Cr.P.C. has been filed by the applicant with a prayer to quash the F.I.R. dated 30.04.2019, charge-sheet dated 26.08.2019 and proceedings of Criminal Case No. 5261 of 2020 *(State vs. Satendra Chauhan)* arising out of Case Crime No. 237 of 2019, under Sections 363, 366 I.P.C., Police Station Taraya Sujan, District Kushinagar pending in the court of Chief Judicial Magistrate, Kushinagar at Padrauna.

3-The brief facts of the case which are required to be stated are that the opposite party no. 4 who is father of the alleged victim lodged a first information report on 30.04.2019 with regard to an incident which took place on 18.03.2019 against eight accused persons namely Radhey Shyam Chauhan, Durgesh Chauhan, Malti, Hira, Suman, Madhuri, Vidhyavati and Satendra Chauhan (present applicant) for the offence under Sections 363 and 366 I.P.C. alleging inter-alia that in the intervening night of 17/18.03.2019, accused persons, in collusion with each other, enticed away his minor daughter.

4-The aforesaid first information report dated 30.04.2019 was challenged by the victim along with other co-accused persons by means of Criminal Misc. Writ Petition No. 20066 of 2019 mainly on the ground

that she (victim) and Radhey Shyam Chauhan (co-accused) both are major, aged about 18 and 23 years respectively as per their birth certificate. There was love affair between them and they have also performed marriage on 14.03.2019 in Arya Samaj Temple. The alleged victim voluntarily left her parental home and entered into a matrimonial alliance with Radhey Shyam Chauhan. The Division Bench of this Court, considering the facts that victim and Radhey Shyam Chauhan are major and they have voluntarily married, quashed the first information report dated 30.04.2019 in the light of judgment of the Apex Court rendered in Criminal Appeal No. 1142 of 2013 (Sachin Pawar vs. State of U.P.) decided on 02.08.2013, vide order dated 30.07.2019 qua all other co-accused of this case who were petitioners in the said writ petition.

5-The main substratum of argument of learned counsel for the applicants is that since after registration of first information report, applicant was arrested and he was sent in jail, therefore, his name was not included in the list of petitioners in Criminal Misc. Writ Petition No. 20066 of 2019 (Smt. Anku Kumari and 7 others vs. State of U.P. and 3 others). The investigating officer, without considering the above order dated 30.07.2019, submitted charge-sheet dated 26.08.2019 against the applicant on the basis of allegation that applicant had dropped the victim at the bus stand, from where she has voluntarily gone with co-accused Radhey Shyam Chauhan. It is also submitted that the concerned court below has illegally taken cognizance on 01.06.2020 and summoned the applicant to face trial whereas no offence is made out against the applicant.

6-Learned A.G.A. as well as learned counsel appearing on behalf of first informant opposed the prayer made on behalf of applicant but on putting certain query, they could not dispute the factum of the case as argued by the learned counsel for the applicant.

7-Having heard the submissions of learned counsel

for the parties and perusing the record, I find that it is not in dispute that as per prosecution case, Radhey Shyam Chauhan is the main accused, who had enticed away the victim. Victim along with other co-accused have jointly filed writ petition against the F.I.R. lodged by her father. As on date, victim is leading her life with co-accused Radhey Shyam Chauhan after solemnizing her marriage with him. The F.I.R. in respect of other co-accused persons has already been quashed by the Division Bench of this Court vide order dated 30.07.2019 as noted above. The case of present applicant stands on better footing than that of co-accused Radhey Shyam Chauhan, therefore, criminal proceeding against the applicant is also liable to be quashed.

8-In view of the above, charge-sheet dated 26.08.2019 and proceedings of Criminal Case No. 5261 of 2020 *(State vs. Satendra Chauhan)* against the applicant arising out of Case Crime No. 237 of 2019 under Sections 363, 366 I.P.C., Police Station Taraya Sujan, District Kushinagar are hereby quashed.

9-In the conspectus of the aforesaid, this application under Section 482 Cr.P.C. stands ***allowed***.

Order Date :- 16.11.2023
Saurabh

Digitally signed by :-
SAURABH KUMAR
High Court of Judicature at Allahabad