

Court No. - 90

Case :- APPLICATION U/S 482 No. - 34452 of 2023

Applicant :- Kamar Mustafa And 3 Others

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

Counsel for Applicant :- Atharva Dixit, Aushim Luthra

Counsel for Opposite Party :- G.A.

Hon'ble Dinesh Pathak, J.

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

2. Applicant has invoked the inherent jurisdiction of this Court under Section 482 Cr.P.C. to quash the impugned summoning order dated 24.04.2023 as well as order dated 10.08.2023 passed by the Revisional Court and the entire proceedings of Complaint Case Number 1085 of 2022 (Majmunnisha Vs. Kamar Mustafa and others) under Section 323 and 498A I.P.C., Police Station-Parshurampur, District- Basti, before the Judicial Magistrate-II, Court No. 13, Basti.

3. It is submitted that the present matter has arisen out of matrimonial discord. Opposite party no. 2 has resorted to two recourses of legal action; by moving a police case as well as complaint case with respect to the same offence of demand of dowry. Previously, opposite party no. 2 has lodged an F.I.R., being Case Crime No. 0408 of 2021 dated 22.10.2021, leveling allegation of harassment and cruelty for demand of dowry against the husband and his immediate relatives. Almost on the same set of facts opposite party no. 2 has moved a complaint dated 07.09.2022 showing different date of occurrence inculcating all the relatives of the husband, who are eight in number. Learned Magistrate, after considering the statement of the complainant under Section 200 Cr.P.C. and the witnesses under Section 202 Cr.P.C. has issued process only against four persons (who are applicants herein) vide impugned order dated 24.04.2023. It is further submitted that the present applicants were also inculpated in the previous police case dated 22.10.2021. Only to harass the present applicants and exert pressure upon them, at subsequent stage, complaint has been moved despite the fact that in police case charge sheet has already been submitted and cognizance has been taken by the court concerned. It is further submitted that two proceedings with the

same allegation initiated against the present applicants are not sustainable in the eye of law.

4. From the perusal of the complaint and the F.I.R. it is manifest that date of occurrence in both the matter are different though altogether same allegation with respect to the demand of dowry has been made by opposite party no. 2 against the present applicants, who are also inculpated in the F.I.R. being Case Crime No. 0408 of 2021.

5. In this conspectus as above, no useful purpose would be served to keep the instant matter pending, therefore, this court deems it appropriate to finally dispose of the present application, without making any observation on the merits of the case as mentioned in the present application, with liberty to the present applicants to move an appropriate application before the court concerned to try and decide both the matters simultaneously, which shall be considered and decided by the court concerned in accordance with law.

6. With the aforesaid observation, present application is disposed of.

Order Date :- 12.10.2023

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