

Court No. - 89

Case :- APPLICATION U/S 482 No. - 34209 of 2023

Applicant :- Smt Sadab Bano And 2 Others

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

Counsel for Applicant :- Arun Kumar Bajpai

Counsel for Opposite Party :- G.A.,Sharad Kumar Srivastava

Hon'ble Deepak Verma,J.

1. Heard learned counsel for the applicant, learned counsel for opposite party no. 2 and learned A.G.A. for the State.
2. This application under Section 482 Cr.P.C. has been filed by the applicant to quash the impugned charge sheet dated 29.10.2022 alongwith cognizance/summoning order dated 17.4.2023 as well as the entire proceedings of Case No. 12406 of 2023 (State vs. Mohd. Kasif Shaikh and others), arising out of Case Crime No. 118 of 2022, under Sections 498-A, 323, 504 and 506 IPC and Section 3/4 of Muslim Women (Protection of Rights on Marriage) Act, 2019, P.S. Hathgaon, District Fatehpur, pending in the court of Civil Judge (J.D.)/F.T.C./ Crime Against Women, Fatehpur.
3. Counsel for the applicants submits that the cognizance taken by learned Magistrate is without application of judicial mind as offence alleged under Section 498-A, 323, 504 and 506 I.P.C. and Section 3/4 Muslim Women (Protection of Rights on Marriage) Act, 2019 is not made out against the applicant. The learned Magistrate without applying his judicial mind took cognizance and summoned the applicant to face trial under Sections 498-A, 323, 504 and 506 IPC and Section 3/4 of Dowry Prohibition Act. He next submits that the cognizance order dated 17.4.2023 is without application of judicial mind and liable to be set aside.
4. Counsel for the opposite party also supported the submissions as raised by counsel for the applicant.
5. Considering the submissions advanced by the parties, learned Magistrate has taken cognizance under Section 3/4 Dowry Prohibition Act, whereas proceeding has been instituted under Section 498-A, 323, 504 and 506 I.P.C. and Section 3/4 of Muslim Women (Protection of Rights on Marriage) Act, 2019. As such, the summoning order dated 17.4.2023 is, *hereby*, set aside. The matter

is remitted to the Civil Judge (J.D.)/F.T.C./ Crime Against Women, Fatehpur to pass orders afresh within a period of one month, after applying his judicial mind and considering the evidence collected during investigation.

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

Order Date :- 18.10.2023

CS/-