

Court No. - 89

Case :- APPLICATION U/S 482 No. - 37419 of 2023

Applicant :- Vibhav Prakash Sharma

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

Counsel for Applicant :- Rajesh Kumar Pal, Kuldeep Singh Yadav

Counsel for Opposite Party :- G.A.

Hon'ble Deepak Verma, J.

1. Heard learned counsel for the applicant and learned AGA for the State.
2. The present 482 Cr.P.C. application has been filed to quash the charge sheet dated 27.10.2017 relating to Case No.2663 of 2018 arising out of Case Crime No. 1048 of 2017, under Section- 498A I.P.C., P.S.- Kotwali Nagar, District- Etah, pending in the court of District Judge, Etah.
3. Counsel for the applicant submits that applicant has been falsely implicated in this case due to mala fide intention and the proceedings initiated against the applicant, who is husband of opposite party no.2, is bad in the eyes of law. The allegations alleged in the F.I.R. are false and fabricated and not tenable in the eyes of law. Applicant and the opposite party no.2 were living separately and having no relations as husband and wife between them since long back and the said charge-sheet is not supported by any cogent evidence to prosecute the applicant. Charge sheet is abuse of process of law. He therefore submits, no prosecution could proceed against the applicant, in such circumstances.
4. *Per contra*, learned A.G.A. opposed the submissions raised by counsel for the applicant and submitted that the submissions of applicant's counsel is based on disputed question of facts and cannot be examined at this stage.
5. Having considered the submissions of learned counsel for the parties and perused the entire record, applicant has challenged the cognizance and charge-sheet after about six years and on perusal of record, prima-facie offence is made out against the applicant and cognizance taken by learned Magistrate is not required to be interfered. Moreover, submission of counsel for the applicant is based upon disputed question of facts, which cannot be examined

at this stage and no interference can be made.

5. In view of the above, in the light of judgment of the Apex Court in the matters of **R.P. Kapur Vs. State of Punjab, A.I.R. 1960 S.C. 866, State of Haryana Vs. Bhajan Lal, 1992 SCC (Cr.) 426, State of Bihar Vs. P.P.Sharma, 1992 SCC (Cr.) 192 and lastly Zandu Pharmaceutical Works Ltd. Vs. Mohd. Saraful Haq and another (Para-10) 2005 SCC (Cr.) 283**, no ground for quashing the proceedings of the aforesaid case, is made out which may call for any interference by this Court in exercise of its inherent power under Section 482 Cr.P.C. as the same do not suffer from any illegality or infirmity.

6. The present application under Section 482 Cr.P.C. lacks merit and is, accordingly, **dismissed**.

7. However, if the applicant moves discharge application before the court below, the court below shall consider the same and decide the application expeditiously, in accordance with law.

Order Date :- 1.12.2023

Saif