

Court No. - 88

Case :- APPLICATION U/S 482 No. - 36261 of 2023

Applicant :- Shanker Lal Kesarwani And 7 Others

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

Counsel for Applicant :- Indrajeet Kumar, Ashok Kumar Srivastava

Counsel for Opposite Party :- G.A.

Hon'ble Sanjay Kumar Singh, J.

1-Heard learned counsel for the applicants and learned Additional Government Advocate for the State of U.P./opposite party no. 1.

2-The instant application under Section 482 Cr.P.C. has been preferred by the applicants with a prayer to quash the proceedings of Complaint Case No. 499 of 2010 (*Savita Kesarwani vs. Rajesh Kesarwani & others*), under Sections 498-A, 323, 504 I.P.C., Police Station Meja, District Allahabad pending in the court of Additional Civil Judge (Junior Division), Court No. 14, Allahabad.

3-At the outset, learned A.G.A. raised a preliminary objection that the instant application under Section 482 Cr.P.C. is not maintainable in view of the judgment of the Apex Court in the case of ***Bhisham Lal Verma vs. State of U.P., 2023 SCC OnLine SC 1399***. In this regard, it is also pointed out that in this case, a complaint was filed on 07.10.2010 against the applicants and Rajesh Kesarwani (husband of opposite party no. 2), in which they were summoned vide order dated 27.11.2010 to face trial. The said summoning order was challenged by the applicants including Rajesh Kesarwani in Criminal Revision No. 5592 of 2010, in which at the initial stage, matter was referred for mediation vide order dated 09.12.2010 but the mediation between the parties concerned had failed. Thereafter, the criminal revision filed by the applicants/revisionists was dismissed on merit vide order dated 25.05.2012, but the applicants did not appear before the trial court and are absconding since long.

4-In response, learned counsel for the applicant does not dispute the aforesaid facts and submits that in the meantime, Rajesh Kesarwani (husband of opposite party no. 2) died on 15.07.2021, therefore, the applicants have preferred this application.

5-Having heard the submission of learned counsel for the parties and perusing the record, I find substance in the submission of learned A.G.A. that the matter has already been adjudicated on merit by this Court vide order dated 25.05.2012 in Criminal Revision No. 5592 of 2010.

6-In view of the above, the instant application under Section 482 Cr.P.C., which is the second application is not maintainable and is accordingly, ***dismissed***.

7-Office is directed to send a copy of this order to opposite party no. 2 for necessary information.

Order Date :- 7.12.2023

Saurabh