

Court No. - 89

Case :- APPLICATION U/S 482 No. - 38211 of 2023

Applicant :- Kajal And Another

Opposite Party :- State Of U.P. And Another

Counsel for Applicant :- Rahul Kesarwani, Dipendra Kumar, Pradeep Kumar Rai

Counsel for Opposite Party :- G.A.

Hon'ble Deepak Verma, J.

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

2. The present 482 Cr.P.C. application has been filed to quash the entire proceedings including the charge-sheet dated 15.04.2017, Cognizance order dated 19.05.2017 in S.T. No. 72 of 2017 (State of U.P. vs. Manish), arising out of Case Crime No. 159 of 2017, under Sections 363, 366, 368, 376 IPC and 3 & 4 of POCSO Act, P.S. Charthawal, District- Muzaffarnagar, pending in the court of Additional District & Sessions Judge/Special Judge (POCSO Act), Muzaffarnagar.

3. Learned counsel for the applicants submits that opposite party no. 2 (father of the victim) lodged the instant first information report under Sections 363, 366 IPC & 3/4 of POCSO Act, thereafter, after investigation Investigating Officer submitted charge-sheet under Sections 363, 366, 368, 376 IPC & 3/4 of POCSO Act against the applicant no. 2. He next submits that applicant no. 1, who is the victim, now is the wife of applicant no. 2. He next submits that applicant nos. 1 & 2 have solemnized marriage in Arya Samaj and they are living together and passing a happy married life. He next submits that since applicants have solemnized marriage, as per definition of Section 375 (Except Clause-2), no offence under Section 376 IPC is made out against the applicant no. 2. He next submits that as per the statement/deposition made before the Trial Court by the victim- applicant no. 1, no offence under alleged Sections is made out against the applicant no. 2. He further submits that all the proceedings against the applicants are malicious prosecution and liable to be set-aside.

4. Per contra, learned AGA opposes the submissions raised by counsel for the applicants and submits that in the present matter trial is under progress and P.W. 2 has been examined and Trial Court would go into the merits of the case after considering the

evidences produced by both the parties.

5. Considered the arguments raised by learned counsel for the applicants and perused the entire records. Submissions raised by learned counsel for the applicant are disputed questions of fact and sitting under 482 Cr.P.C. jurisdiction, this Court has no power to examine the facts.

6. 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.

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

8. However, learned Trial Court is hereby directed to conclude the trial of the aforesaid case, preferably within a period of nine months, from the date of production of certified copy of this order.

Order Date :- 21.11.2023

Aditya