

Court No. - 90

Case :- APPLICATION U/S 482 No. - 38968 of 2023

Applicant :- Amit Das And 3 Others

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

Counsel for Applicant :- Mir Sayed

Counsel for Opposite Party :- G.A.

Hon'ble Dinesh Pathak,J.

1. Heard learned counsel for the applicants, learned AGA and perused the record.

2. The applicants have invoked inherent jurisdiction of this Court assailing the charge sheet No. 35 of 2007 dated 11.09.2007 and cognizance order dated 28.9.2007 as well as entire criminal proceeding of Crl. Case No.25 of 2012 (State of U.P. Vs. Amit Das and others) arising out of Case Crime No.54 of 2006, under Sections 498A, 323, 506 I.P.C. and Section 3/4 D.P. Act, Mahila Thana, District Kanpur Nagar, pending before the FTC/CAW, Kanpur Nagar, on the basis of compromise.

3. It is submitted that instant matter is arising out of matrimonial discord. At later stage, both the parties have amicably settled their dispute, consequently, opposite party No.2 (wife) has moved a miscellaneous application dated 26.7.2017 supported by an affidavit with the prayer to drop the criminal proceeding against the present applicants. Certified copy of the application dated 26.7.2017 along with supported affidavit has collectively been filed as Annexure No.7 to this application. It is further submitted that learned trial court has already acknowledged the filing of an application in its order dated 26.7.2017. Since the date of filing of application dated 26.7.2017 parties were not appear before the court concerned under the impression that the criminal proceeding has been dropped in the light of the application dated 26.7.2017. At later stage, non bailable warrant has been issued on 12.12.2022. It is further submitted that in the light application dated 26.7.2017 instant application may be allowed and criminal proceeding may be quashed.

4. Perusal of record reveals that opposite party no.2 has moved a simple application dated 26.7.2017 to drop the criminal proceeding, however, there is nothing on record to demonstrate

that any compromise application has been inked between the parties and filed with their joint prayer showing the amicable settlement took place between the them.

5. After due deliberation at length, however, learned counsel for applicants has urged to grant an interim protection to the present applicants so that they may appear before the court and move an appropriate application to get the matter decided on the basis of compromise.

5. In this conspectus, as above, no useful purpose would be served to keep this matter pending, therefore, this Court deems it appropriate to finally dispose of the present application, without considering the merits of the case, with a direction that the present applicants in case, appear/surrender and move a bail application within a period of two weeks from today before the court concerned, same may be considered and decided by said court within a period of two weeks, thereafter.

6. For a period of four weeks or till the decision on the bail application, whichever is earlier, further proceeding in CrI. Case No.25 of 2012 (State of U.P. Vs. Amit Das and others) arising out of Case Crime No.54 of 2006, under Sections 498A, 323, 506 I.P.C. and Section 3/4 D.P. Act, Mahila Thana, District Kanpur Nagar, shall remain stayed. It is made clear that in case any amicable settlement took place between the parties, they are free to move a compromise application before the court below and approach again before this Court to get the matter decided on the basis of said compromise.

7. With the aforesaid direction, present application is **disposed of**.

Order Date :- 20.11.2023

Md Faisal