

Court No. - 87

Case :- APPLICATION U/S 482 No. - 39375 of 2023

Applicant :- Smt. Saraswati Devi And Another

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

Counsel for Applicant :- Avdhesh Narayan Tiwari

Counsel for Opposite Party :- G.A.

Hon'ble Neeraj Tiwari,J.

1. Supplementary affidavit filed today is taken on record.
2. Heard learned counsel for the applicants and learned A.G.A. for the State.
3. The present 482 Cr.P.C. application has been filed to quash the entire proceeding of Case No. 234 of 2021 (Tularam Vs. Rajendra @ Rajjan and another), under Sections 498A, 323, 504, 506 IPC and 3/4 D.P. Act, P.S.-Kotwali Orai, district Jalaun and all consequential proceedings thereto, pending in the Court of Civil Judge(J.D.)/FTC(POCSO Act), Jalaun at Orai, in terms of the settlement agreement of parties before the Mediation and Conciliation Centre of this court dated 06.04.2011.
4. Learned counsel for the applicants submitted that earlier opposite party No. 2 had filed Complaint Case No. 803 of 2008, under Sections-498A, 323, 504, 506 IPC & Section 3/4 of D.P. Act, upon which, summoning order had been issued against the applicants. He next submitted that applicants challenged the aforesaid complaint case by filing Application U/s 482 No. 15471 of 2008, but the same was dismissed as infructuous as well as for want of prosecution vide order dated 30.11.2021. He next submitted that again in the year 2010, another complaint case was filed by opposite party No. 2 against the applicants, being Complaint Case No. 35 of 2010, under Sections-498A, 323, 504, 506, 147, 452 IPC & Section 3/4 of D.P. Act. He next submitted that applicants challenged the said complaint case by filing Application U/s 482 No. 30730 of 2010, in which, the matter was referred for mediation vide order of this Court dated 23.09.2010.
5. He next submitted that ultimately, on the basis of Mediation Report dated 06.04.2011, Application U/s 482 No. 30730 of 2010 was allowed vide order dated 08.09.2015, quashing the criminal

proceeding against the applicants. He next submitted that once the criminal proceeding against the applicants has been quashed by this Court vide order dated 08.09.2015 passed in Application U/s 482 No. 30730 of 2010 on the basis of settlement agreement between the same parties, nothing remains to be decided even in earlier matter, i.e. Complaint Case No. 803 of 2008, but after issuance of NBW, he has filed present application. He next submitted that as parties have already entered into settlement agreement and present criminal proceeding is nothing, but misuse of process of law, therefore, present proceeding is bad and liable to be quashed.

6. Learned A.G.A. could not dispute the facts argued by learned counsel for the applicants.

7. In view facts and circumstances of the case, present application is allowed. Criminal proceeding against the applicant in Case No. 234 of 2021 (Tularam Vs. Rajendra @ Rajjan and another) is hereby quashed.

8. As the application is being allowed at the fresh stage, in case, if there is any concealment of facts, it is open for opposite party No. 2 to move recall application.

Order Date :- 22.11.2023

ADY