

Court No. - 92

Case :- APPLICATION U/S 482 No. - 39984 of 2023

Applicant :- Brajesh Kumar And 3 Others

Opposite Party :- State of U.P.

Counsel for Applicant :- Vijay Kumar Ojha

Counsel for Opposite Party :- G.A.

Hon'ble Anish Kumar Gupta,J.

1. Heard Shri Vijay Kumar Ojha, learned counsel for the applicants and Shri Arvind Kumar, learned A.G.A. for the State.

2. The instant application under section 482 Cr.P.C. has been filed seeking quashing of the entire proceedings of Criminal Case No. 1304 of 2023 (State Vs. Brajesh Kumar and others) arising out of Case Crime No. 0075 of 2023 under section 420, 120-B I.P.C. and section 3/4 of D.P. Act police station Bah District Agra pending in the court of Judicial Magistrate Ist Faehabad District Agra as well as the chrgesheet dated 16.5.2023 and cognizance order dated 31.7.2023 summoning the applicants under sections 420, 120-B I.P.C. and 3/4 of D.P. Act.

3. Learned counsel for the applicant submits that with the similar allegation earlier a complaint case was filed by the opposite party no. 2 against the applicants herein wherein the matter was referred for mediation. However, the mediation between the parties failed and due to non prosecution of the said complaint case, the same was dismissed under section 203 Cr.P.C. Therefore, learned counsel for the applicant submits that the instant application is repetition of the same offence for which the complaint has already been dismissed. Therefore, learned counsel for the applicant submits that the instant FIR is nothing but malicious prosecution against the applicants and prayed for quashing of the entire case.

4. On the other hand, learned A.G.A. submits that the clear and categorical allegations have been made against the applicant herein and their involvement in the instant case for demand of dowry of Rs.10 lakhs and a car for marrying with opposite party no. 2 herein for which a complaint was filed in the year 2019 itself and after the settlement of marriage, the applicant no. 1 has tried to forcefully abuse the opposite party no. 2 under the garb of said settlement of marriage. However, subsequently when the opposite party no. 2 denied the physical relation, the applicant herein has denied to

marry the opposite party no. 2 and a demand of Rs.10 lakhs and a car was raised for solemnizing the marriage with opposite party no. 2. Since the marriage was already settled and the opposite party no. 2 was hopeful of the marriage and since there was assurance that after withdrawal of the complaint the applicant no. 1 shall marry her, therefore, despite the mediation proceedings pending, the opposite party no. 2 did not press her complaint and the same was dismissed for want of evidence against the applicant herein. Despite the aforesaid dismissal of the complaint the applicant no. 1 has not married with the opposite party no. 2 and delayed the marriage and falsely assured for marriage. From perusal of the allegations made in the F.I.R. itself it is clear that there was written settlement between the parties that they will marry with the opposite party no. 2 after withdrawal of the said complaint case, which has been categorically explained in the F.I.R. Therefore, despite the dismissal of the said complaint case when the applicant has failed to marry with the opposite party no. 2, the instant FIR has been lodged after the applicant no. 1 married with someone else. Therefore, there are sufficient prima facie allegations against the applicant for the offence alleged in the F.I.R. and no interference is called for by this court.

5. Having heard the learned counsel for the parties the court has perused the record and from perusal of the allegations made in the F.I.R. and statement under section 161 Cr.P.C. and the charge sheet, prima facie sufficient material is available against the applicants for the offences alleged against them. Therefore, in the considered opinion of the court there is no illegality in the charge sheet as well as in the summoning order against the applicants for the offences alleged against them, therefore, no interference is required in exercise of power under Section 482 Cr.P.C. and the instant application is devoid of merits and is accordingly dismissed in the light of the judgements of Apex Court in **R.P. Kapoor Vs. State of Punjab, AIR 1960 S.C. 866; State of Haryana Vs. Bhajan Lal, 1992 (supp (1) SCC 335; 1992 SCC (Cri) 426 and Neeharika Infrastructure Pvt. Ltd. Vs. State of Maharashtra and others: 2021 SCC Online SC 315.**

Order Date :- 28.11.2023
o.k.