

Court No. - 90

Case :- APPLICATION U/S 482 No. - 40260 of 2023

Applicant :- Raj Kumar

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

Counsel for Applicant :- Vikas Tiwari

Counsel for Opposite Party :- G.A.

Hon'ble Dinesh Pathak,J.

1. Heard learned counsel for the applicant and the learned A.G.A.
2. The applicant has invoked the inherent jurisdiction of this Court under Section 482 Cr.P.C. for quashing of the order dated 10.10.2023 passed by the Civil Judge (Junior Division) F.T.C. (Offence against Women)/Judicial Magistrate, Mathura in Case No.624 of 2022 (State vs. Rajkumar and Others) under Section 498-A, 323, 504, 406 I.P.C. and 3/4 D.P. Act, Police Station Mahila, District Mathura arising out of Case Crime No.236 of 2021.
3. Perusal of the order impugned dated 10.10.2023 reveals that vide order dated 07.07.2023 the present applicant was released on interim bail and he was directed to appear on the next date fixed i.e. 10.10.2023, however, on the said date fixed, an adjournment application has been moved on behalf of the present applicant (accused) to condone his absence on the ground that he is posted as army personnel in Jammu & Kashmir and could not take leave from service. Learned trial court has rejected the adjournment application moved on behalf of the present applicant and issued non-bailable warrant by the order under challenge.
4. It is submitted by learned counsel for the applicant that the present applicant is an army personnel who is posted in Jammu & Kashmir, therefore, it is difficult for him to get leave from the service all the time, consequently, he could not appear on the date fixed which led issuance of non-bailable warrant against him. It is further submitted that one opportunity may be given to the present applicant to appear before the court concerned and till date of appearance he may be protracted from any legal action. It is next submitted that present applicant is not intended to avoid the court proceeding, however, due to some job constraints, he could not appear on the date fixed by the court below i.e. 10.10.2023.
5. Learned A.G.A. has raised objection qua conduct of the present applicant who is deliberately protracting the litigation.

6. In this conspectus as above, no useful purpose would be served to keep this application pending, therefore, this Court deems it appropriate to decide the instant application finally, without entering into the merits of the case as averred in the instant application, with a direction that, in case, the present applicant appears/surrenders before the court concerned along with a certified copy of this order and move bail application within three weeks from today, same shall be considered and decided by the court concerned within a period of two weeks thereafter.

7. For a period of five weeks or till the disposal of bail application, whichever is earlier, no coercive action shall be taken against the present applicant in Case Crime No.236 of 2021 pending in the court of Civil Judge (JD) F.T.C. (Offence against Women)/Judicial Magistrate, Mathura.

8. With the aforesaid observation/direction, the instant application is finally **disposed off**.

Order Date :- 21.11.2023

VR