

Court No. - 4

Case :- APPLICATION U/S 482 No. - 40633 of 2023

Applicant :- Vishwanath And 7 Others

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

Counsel for Applicant :- Upendra Kumar Rai

Counsel for Opposite Party :- G.A.

Hon'ble Prakash Padia,J.

1. Heard learned counsel for the applicants, learned AGA for the State and perused the records.
2. The present application under Section 482 Cr.P.C. has been filed with the prayer to quash the charge sheet dated 03.04.2023 and cognizance order dated 01.09.2023 issued against applicant Nos.1 to 7 under Sections 498-A, 323, 504 and 506 I.P.C. and against applicant No.8 under Section 498-A, 323, 504, 506 I.P.C. and Section Section 3/4 D.P. Act as well as entire proceeding of Criminal Case No.2775 of 2023 arising out of Case Crime No.53 of 2023 Police Station Kandhrapur, District Azamgarh pending in the Court of Judicial Magistrate, F.T.C., Mahila Azamgarh.
3. It is argued by counsel for the applicants that wholly illegally allegations were made not only against the husband/applicant no.8 but also against the entire family members. The applicant no.1 is father-in-law, applicant no.2 is Jeth, applicant no. & 4 are Devar, applicant no.5 is jethani, applicant Nos.6 & 7 are Nanad and applicant no.8 is husband. He also placed reliance upon the law laid down by the Hon'ble Apex Court in the case of Geeta Mehrotra and another Vs. State of U.P. and another reported in 2012 LawSuit (SC) 716 as well as Kahkashan Kausar @ Sonam & Ors Vs. State of Bihar & Ors in Criminal Appeal No.195 of 2022 (arising out of S.L.P. (Crl.) No.6545 of 2020) decided on 08th February, 2022.

4. The matter requires consideration.
5. Issue notice to opposite party no.2 returnable at an early date. Steps be taken within a week.
6. Counter affidavit be filed by all the respondents within six weeks.
7. Rejoinder affidavit may be filed within two weeks' thereafter.
8. List thereafter.
9. Till the next date of listing, the proceedings of Criminal Case No.2775 of 2023 arising out of Case Crime No.53 of 2023 under Sections 498-A, 323, 504 and 506 I.P.C. Police Station Kandhrapur, District Azamgarh, pending before the Court of Judicial Magistrate, F.T.C., Mahila Azamgarh shall remain stayed only in respect of applicant Nos.1 to 7.
10. Insofar as the applicant No.8/husband namely Vijendra Kumar is concerned, the present application is dismissed with the direction that the applicant No.8 shall surrender before the concerned Court below within two weeks from today and in case he applies for bail, the bail application shall be decided expeditiously by the courts below in accordance with law laid down by the Apex Court in the case of Satender Kumar Antil Vs. Central Bureau of Investigation and another, reported in 2021 SCC OnLine SC 922.
11. For the period of two weeks from today or till the time of surrender of the applicant no.8 before the Court below, whichever is earlier, no coercive action shall be taken against him.

Order Date :- 3.11.2023

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