

Court No. - 89

Case :- APPLICATION U/S 482 No. - 41272 of 2023

Applicant :- Smt. Veenakshi Verma

Opposite Party :- State Of U.P.And 7 Others

Counsel for Applicant :- Vinay Kumar Singh

Counsel for Opposite Party :- G.A.,Niklank Kumar Jain

Hon'ble Deepak Verma,J.

1. Heard learned counsel for the applicant and learned A.G.A. for the State.
2. This application under Section 482 Cr.P.C. has been filed by the applicant to quash the order dated 19.10.2023, passed by Additional Sessions Judge, Court No.7, Kanpur Nagar as well as order dated 18.07.2023, passed by Additional Metropolitan Magistrate, 6th Kanpur Nagar, in Complaint Case No.3212 of 214, under Sections 498-A, 504 IPC & 3/4 D.P. Act, Police Station Barra, District Kanpur Nagar, pending in the Court of Additional Metropolitan Magistrate, 6th Kanpur Nagar.
3. Learned counsel for the applicant submits that applicant is complainant and she filed a complaint under Sections 498-A, 323, 504, 506, 388 IPC and 3/4 D.P. Act against the opposite party nos.2 to 8. Opposite party no.2 (husband) was summoned under Sections 498-A IPC & 3/4 D.P. Act vide order dated 05.10.2015. Being aggrieved she filed revision against the order dated 05.10.2015 and the same was allowed on 28.06.2017 and revisional Court set aside the order dated 05.10.2015 and summoned the opposite party nos.2 to 8 under Sections 498-A, 504 IPC and 3/4 D.P. Act. In the aforesaid case, applicant regularly appeared before the Court below but on 29.11.2019 the applicant

could not appeared due to lapse of casual leave and she sent exemption application through her brother and the Court below allowed the said application with cost of Rs.2500/- and directed the applicant to appear in person on 09.01.2020 but the applicant did not appear on the next date and also not deposited the cost amount. Thereafter applicant moved an application on 18.07.2023. Trial Court vide order dated 05.05.2023, register the application and closed the evidence of the applicant under Section 244 Cr.P.C. Thereafter applicant moved an application for recalling the order dated 05.05.2023 but the same has been rejected vide order dated 18.07.2023. The applicant challenged the order dated 18.07.2023 by filing revision before the Additional Sessions Judge but the Additional Sessions Judge vide order dated 19.10.2023 rejected the revision. Learned counsel for the applicant further submitted that applicant could not appear on the date fixed and also could not deposit the cost amount during that period because applicant blessed a baby and due to some complication she could not appear. He next submitted that next date is fixed in the case is 04.01.2024 and she is ready to produce all the evidences.

4. Learned AGA and learned counsel for the private opposite parties vehemently opposed the submissions raised by learned counsel for the applicant.

5. Considering the arguments raised by learned counsel for the applicant and perused the entire records; in the interest of justice and just decision of the case, it is necessary that an opportunity may be given to the applicant / informant to produce evidence and denial to adduce evidence could effect the case of the applicant.

6. In view of above, instant 482 Cr.P.C. application is being allowed with direction that if applicant deposit Rs.20,000/- as cost

before the trial court on or before the date fixed (04.01.2024) in the case, then the Trial Court shall give an opportunity to produce witnesses / evidences to the applicant, in accordance with law.

7. The order impugned dated 19.10.2023 is, hereby, set aside. With these observations, 482 Cr.P.C. application is **allowed**.

8. Cost amount shall be given to opposite party nos.2 to 8. If the applicant does not deposit the amount as aforesaid, the order passed herein shall have no effect and the court will proceed with the case in accordance with law.

Order Date :- 4.12.2023

I.A.Siddiqui