

Court No. - 69

Case :- APPLICATION U/S 482 No. - 43611 of 2022

Applicant :- Abhishek Srivastava And 2 Others

Opposite Party :- State Of U.P And Another

Counsel for Applicant :- Rakesh Pathak

Counsel for Opposite Party :- G.A.,Jaichandra Singh

Hon'ble Samit Gopal,J.

1. List revised.

2. Heard Sri Pawan Shukla, Advocate, holding brief of Sri Rakesh Pathak, learned counsel for the applicants, Sri Bare Lal Bind, learned counsel for the State and perused the records.

3. Sri Jaichandra Singh, learned counsel for the opposite party no. 2 is not present even when the matter has been taken up in the revised list.

4. The present application under Section 482 Cr.P.C. has been filed by the applicants Abhishek Srivastava, Ajay Kumar Srivastava, Smt. Neha Srivastava, with the prayer to quash the entire proceedings of Case No. 90544 of 2022, State vs. Abhishek Srivastava and others, arising out of Case Crime No. 81 of 2021, under Sections 498A, 323, 504, 506, 294, 342 I.P.C. and 3/4 D.P. Act, P.S. Kidwai Nagar, District Kanpur Nagar, charge sheet no. 54/2022, dated 13.5.2022, summoning order dated 21.6.2022 and non bailable warrant dated 18.11.2022 passed by the Chief Metropolitan Magistrate, Kanpur Nagar in Case No. 90544 of 2022, State vs. Abhishek Srivastava and others, arising out of Case Crime No. 81 of 2021, under Sections 498A, 323, 504, 506, 294, 342 I.P.C. and 3/4 D.P. Act, P.S. Kidwai Nagar, District Kanpur Nagar, pending in the court of Additional Civil Judge IIIrd (Junior Division), Kanpur Nagar with further prayer to stay the proceedings of the aforesaid case, charge sheet, summoning order and non bailable warrants during pendency of the present application.

5. *The matter was referred to the Mediation Centre of this Court vide order dated 02.1.2023 for making an effort between the parties for settling their disputes amicably.*

6. *As per report of Mediation Centre dated 03.8.2023 the parties have amicably settled their dispute and further agreed to withdraw the cases going on between them in view of the settlement agreement.*

7. *As per the office report dated 26.8.2023 a report from the Mediation Centre of this Court is on record which states that mediation between the parties is successful.*

8. *From perusal of the report of Mediation Centre of this Court, it appears that in pursuance of the said order the mediation proceedings were taken up which ended in a settlement dated 3.8.2023 between the parties and the Mediation succeeded. The parties have settled their grievances and even the dispute arising in the present matter.*

9. *Learned counsel for the applicants states that a case under Section 13B of the Hindu Marriage Act is pending before the Family Court, Kanpur Nagar as Case No. 1751 of 2023. Learned counsel assures that the applicants shall abide by all the terms and conditions of settlement agreement arrived at between the parties before the mediation centre of this Court and shall fully co-operate with expeditious disposal of the said case pending before the family court. He prayed that a direction for expeditious disposal of the same be given.*

10. The law with regards to quashing of a case on the basis of settlement arrived between the parties, is well settled. The Apex Court in the cases of **(1) B.S. Joshi and others Vs. State of Haryana and another: (2003)4 SCC 675; (2) Nikhil Merchant Vs. Central Bureau of Investigation : (2008) 9 SCC 677; (3) Manoj Sharma Vs. State and others: (2008) 16 SCC 1; (4) Gian Singh Vs. State of Punjab: (2012) 10 SCC 303; (5) Shaifullah and others Vs. State of U.P. And another: 2013 (83) ACC 278 and (6) Parbatbhai Ahir@Parbatbhai @ Bhimsinbhai Karmur and others Vs. State of Gujarat and another: (2017) 9 SCC 641** has held that the cases in which the parties have settled their grievances can be quashed.

11. From perusal of the records and the law laid down by the Apex Court on the subject matter, the present case is a good case for exercising powers by this Court to quash the proceedings of case, charge sheet, summoning order and non bailable warrants as prayed for by the applicants.

12. In view of the above, the present application is allowed.

13. The proceedings of the aforesaid case, charge sheet, summoning order and non bailable warrants are hereby quashed.

14. However the Family Court, Kanpur Nagar, is directed to expedite the hearing of the said case and decide the same within 45 days from the date of production of certified copy of this order.

(Samit Gopal,J.)

Order Date :- 2.11.2023

Naresh