

Court No. - 92

Case :- APPLICATION U/S 482 No. - 42087 of 2023

Applicant :- Shailendra Singh Chauhan Alias Samrat And
Another

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

Counsel for Applicant :- Sudhanshu Pandey, Madan Ji
Pandey, Mamta Singh, Vineeta Devi

Counsel for Opposite Party :- G.A., Chandra Bhushan Dhar
Dubey, Yogesh Kumar Tripathi

Hon'ble Anish Kumar Gupta, J.

1. Heard Ms. Mamta Singh, learned counsel for the applicants and Sri Rajiv Pandey, learned A.G.A. for the State.

2. The instant application under Section 482 Cr.P.C. has been filed seeking quashing of the charge-sheet dated 04.08.2023 as well as impugned cognizance order dated 29.08.2023 in Case No. 10364 of 2023 (State of U.P. vs. Rakesh & Others), arising out of Case Crime No. 328 of 2023 u/S 376, 377, 323, 504, 506, 120-B I.P.C., P.S.- Kotwali, District- Maharajganj, pending in the court of learned Chief Judicial Magistrate, Maharajganj.

3. Learned counsel for the applicants submits that the opposite party no.2 was in a live-in relationship with the applicant no.2 herein and when the said relationship came into the knowledge of the parents of the applicant no.1, they stopped financial support to the applicant no.1. In such a situation, the applicant no.2 supported the applicant no.1 and also to the opposite party no.2, financially, as he was employed as Registrar. Learned counsel for the applicants submits that when such relationship with the applicant no.1 became estranged relationship, then, the opposite party no.2 started to extract money from applicant no.2. Learned counsel for the applicants has also made various submissions with regard to the other F.I.Rs. lodged by the opposite party no.2 against the applicants and her relationship with various other persons. Therefore, learned counsel for the applicants submits that since the relationship between the applicant no.1 and the opposite party no.2 became estranged, she began to extract money from the applicant no.2 and started making false allegations against the applicants and the instant F.I.R. has been lodged by her making false and fabricated allegations against both the applicants. Learned counsel for the applicants has also submitted that with regard to an incident dated 20.06.2023, wife of the applicant no.2 has also lodged an

F.I.R. against the opposite no.2 and her family members and others, making allegation that the opposite party no.2 has assaulted the applicant no.2 and abused him for his caste.

4. Learned counsel for the applicants further submits that the opposite party no.2 has denied the internal and external medical examination. In view thereof, of the aforesaid submissions by learned counsel for the applicants seeks quashing of the entire proceedings of the instant F.I.R. against the applicants herein.

5. Per contra, learned A.G.A for State submits that various documents with regard to the live-in relationship and relationship with other persons are unproved documents, which cannot be relied upon for quashing of the instant case against the applicants herein. Those, documents are required to be proved during the trial by the applicants. From the allegations made in the F.I.R., which are of very serious in nature wherein, in the beginning the applicant no.2 had physical relationship with the opposite party no.2 and subsequently thereto, made video clips etc., of the said relationship and thereafter, by threatening to make such videos viral, the applicant no.2 had repeatedly physical relationship with the opposite party no.2 and also forced her to have physical relationship with various other persons. The subsequent F.I.R., lodged by the applicant no.2, against the opposite party no.2, is nothing but a counterblast case lodged by the wife of the applicant no.2, after the F.I.R. has been registered by the opposite party no.2 against the applicants. Therefore, learned counsel for the State submits that since various documents which have been filed by the applicants herein, the veracity of the same cannot be tested at the stage, while exercising powers u/S 482 Cr.P.C and the same can be tested only during the trial and police after due investigation has filed the charge-sheet against the applicants herein, on which the learned Magistrate has already taken cognizance, on the basis of the material available before him. Therefore, he has prayed for dismissal of the instant application on behalf of the applicants.

6. Having heard the submissions made by learned counsels for the parties, this Court has carefully gone through the record of the case. From the allegations made in the F.I.R., the case of the opposite party no.2 is that she met the applicant no.2, in connection with some property dispute, as the applicant no.2 was posted as Registrar. Then, the applicant no.2 under garb of helping her repeatedly called her and had physical relationship with the opposite party no.2 and prepared an obscene video and photo of the opposite party no.2 with the applicant no.2 and thereafter, he continued to have forcible physical relationship with the opposite party no.2, by threatening her to make the

said video viral. Applicant no.2 also forced the opposite party no.2 to have physical relationship with the applicant no.1 and various other persons. When on 20.06.2023, the opposite party no.2 went in the office of the applicant no.2, then, he became violent and alongwith applicant no.1, he abused and assaulted the opposite party no.2 and her mother. Therefore, the instant F.I.R. was lodged against the applicants herein. Having come to the knowledge of registration of the F.I.R. by the opposite party no.2, the wife of the applicant no.2 filed an application u/S 156(3) Cr.P.C., on 06.07.2023, upon which an F.I.R. was registered against the opposite party no.2, on 21.08.2023. In the said F.I.R., wife of the applicant no.2 had made allegations against the opposite party no.2 that she used to extract money from the applicant no.2 and his friend and he used to threat them of implicating them in the false cases of rape etc. In her Statements u/S 161 and 164 Cr.P.C. , the opposite party no.2 has duly supported the allegation as made in the F.I.R. and subsequently thereto, the charge-sheet was filed against the applicants herein for offences u/S 376, 377, 323, 504, 506, 120B I.P.C. From the record, it also appears that the applicants subsequently to the registration of the aforesaid F.I.R. by the opposite party no.2, continued to threat and blackmail the opposite party no.2, for which the other F.I.Rs. dated 24.07.2023 and on 23.08.2023 were also lodged by the opposite party no.2 against the applicants herein.

7. From the aforesaid, it appears that the instant case involves various questions of facts for determination and various documents are required to be appreciated, which cannot be done during the proceedings u/S Section 482 Cr.P.C. and the same can be very well availed by the applicants during the trial. Therefore, in the facts and circumstances of this case, this Court do not feel it proper to interfere while exercising powers u/S 482 and the instant application u/S 482 Cr.P.C., is hereby ***dismissed***.

Order Date :- 11.12.2023
Shubham Arya