

Court No. - 93

Case :- APPLICATION U/S 482 No. - 42390 of 2023

Applicant :- Shivangi Dixit And Anther

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

Counsel for Applicant :- R S Dubey, Savita Dubey

Counsel for Opposite Party :- G.A.

Hon'ble Manoj Bajaj, J.

Applicants are aggrieved against the alleged delay in disposal of their complaint instituted under Section 12 Protection of Women from Domestic Violence Act, 2005 bearing Complaint Case No. 2889 of 2019, titled *Shivangi Dixit and another Vs. Avnish Pandey and others*, pending before the Judicial Magistrate-Ist, Gorakhpur and, therefore, have approached this Court for issuance of directions for expeditious conclusion of the pending proceedings.

Learned counsel for applicants while pressing for his prayer has drawn the attention of the Court to the order dated 9.3.2022 and submitted that previously a similar application bearing Application U/S 482 No. 24037 of 2021 was instituted by the applicants, wherein, a specific direction was given by this Court to the trial court to conclude the proceedings within a period of two months. Learned counsel for applicants submits that despite this mandate, the proceedings have not been concluded, therefore, in these compelling circumstances, they have once again approached this Court for issuing the same directions.

During the course of hearing, it is not disputed by learned counsel for applicants that subject complaint was filed in the year 2019, wherein for the first time, the respondent-accused appeared on 28.10.2021. The argument of the learned counsel for applicants that order dated 9.3.2022 ought to have been complied with in all circumstances is not acceptable as there is no direction in this order that the case filed by the applicants be given preference to all other pending older cases. Learned counsel has fairly conceded that the cases instituted prior to the subject complaint case are shown above than this case in the cause list and many a times, it so happens that the court time is over in dealing with the older cases.

Further, this Court can safely take judicial notice of the prevalent situation in the country, where each and every court is overburdened with the pendency of the cases, and the breakout of pandemic Covid-19 introduced unusual conditions in the country compelling the administration to impose various restrictions/ lockdown in order to prevent the spread of the disease, which resulted in closure of courts and consequently, pendency of the cases further crept up. A reading of the order dated 9.3.2022 also shows that while pressing for his prayer, the applicant did not disclose before this Court that the opposite party no.2 had appeared in the complaint for the first time on 28.10.2021. Besides, this Court has

already made an observation in order dated 9.3.2022 to avoid unnecessary adjournment and has directed expeditious disposal of the case preferably within a period of two months. Thus, the direction at best is only a directory and it would be dependent upon other attending circumstances of the cases.

Recently, the Hon'ble Supreme Court has made observation in the order dated 10.11.2023 passed in ***Writ Petition(s) (Criminal) No. 587 of 2023, titled Shaikh Uzma Feroz Hussain Vs. The State of Maharashtra*** that the constitutional court should not in a routine manner fix a time frame for a pending case before trial court for its conclusion in a specific time frame.

In view of the above, no case is made out for exercise of inherent powers under Section 482 Cr.P.C.

The application is accordingly, dismissed.

Order Date :- 20.11.2023
P.S.Parihar