

Court No. - 92

Case :- APPLICATION U/S 482 No. - 43619 of 2023

Applicant :- Diwakar Sahu And 3 Others

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

Counsel for Applicant :- Sanjay Kumar Mishra, Sudhir Kumar Shukla

Counsel for Opposite Party :- G.A.

Hon'ble Anish Kumar Gupta, J.

1. Sri K.K. Mishra, learned Advocate has filed his vakalatnama and short-counter affidavit on behalf of opposite party no.2 today in Court, which is taken on record.

2. Heard Sri Sanjay Kumar Mishra, learned counsel for the applicants, Sri K.K. Mishra, learned counsel for the opposite party no.2 and Sri Prem Prakash Tiwari, learned A.G.A. for the State.

3. The instant application has been filed seeking quashing of charge sheet dated 21.02.2021, summoning order dated 10.02.2022 as well as entire proceeding of Case No.- 94 of 2022 (State Vs. Diwakar Sahu and Others) arising out of Case Crime No.- 25 of 2020 under Sections 498-A, 323, 504, 506, 406 I.P.C. and 3/4 D.P. Act, P.S.- Mahila Thana, District-Prayagraj.

4. Learned counsel for the applicant submits that the instant proceeding was lodged by opposite party no.2 against the applicants wherein due to matrimonial dispute between applicant no.1 and the opposite party no.2. Learned counsel for the applicant further submits that matrimonial dispute between the parties has been settled and on the basis of such settlement the application under Section 13-B Hindu Marriage Act have been filed by the parties for dissolution of marriage by mutual consent and as per the compromise all the articles, jewellery and amount of Rs. 7,00,000/- have been given to opposite party no.2 at the time of filing divorce petition. Subsequent thereof vide judgement and order dated 26.09.2022 the decree of dissolution of marriage has already been passed by the Additional Principal Judge, Family Court, Room No.-3, Allahabad. It is further stated that opposite party no.2 has already withdrawn the application under Section 125 Cr.P.C. filed by her vide order dated 14.05.2022 passed by Additional Principal Judge, Family Court, IVth, Allahabad. Learned counsel for the applicants submits that this is the only proceeding, which is pending between the parties and all the other proceeding between the parties has already been withdrawn by the respective parties and the decree of divorce has already been granted.

5. Learned counsel for the opposite party no.2 does not dispute the aforesaid fact and supports the prayer made by learned counsel for the applicants.

6. Learned A.G.A. appearing for the State does not dispute the compromise between the parties in view of decree of divorce on the basis of compromise between the parties and proceedings under Section 125 Cr.P.C., which has already been withdrawn. Learned A.G.A. does not oppose the prayer made by learned counsel for the applicant.

7. Having heard rival submissions of learned counsel for the parties. They have filed an application under Section 13-B Hindu Marriage Act being Matrimonial Case No.- 41 of 2022 and parties have already exchanged all the relevant articles and jewellery and the amount of Rs. 7,00,000/- was already paid by the applicant no.1 before the Family Court at the time of application under Section 13-B of Hindu Marriage Act.

8. Learned counsel for the opposite party no.2 submits that after the grant of decree of divorce by mutual consent on 26.09.2022 the opposite party no.2 has already withdrawn the aforesaid amount of Rs. 7,00,000/- and vide order dated 14.05.2022 the proceedings under Section 125 Cr.P.C. has already been withdrawn by the opposite party no.2.

9. In view of settlement between the parties nothing remains to be proceeded against the applicants since it was a matrimonial dispute and has already been settled between the parties amicably. Therefore, no fruitful purpose survives in the matter to keep the matter pending.

10. In view thereof and in the light of the judgements of the Apex Court in ***Gian Singh vs. State of Punjab and Another : (2012) 10 SCC 303; Prabatbhai Aahir Alias Prabatbhai Bhimsinghbhai Karmur and others vs. State of Gujarat and Another : (2017) 9 SCC 641; Narinder Singh & Ors. vs. State of Punjab : (2014) 6 SCC 466 and B.S.Joshi and Other vs. State of Haryana and Another : (2003) 4 SCC 67***, the instant application is **allowed** and the entire proceedings in Case No. 94 of 2022 (State Vs. Diwakar Sahu and Others) arising out of Case Crime No.- 25 of 2020 U/S 498-A, 323, 504, 506 I.P.C. and 3/4 D.P. Act, P.S.- Mahila Thana, District- Prayagraj, pending in the court of Additional Civil Judge (Junior Division) 21, District- Prayagraj, are hereby quashed.

Order Date :- 29.11.2023

Virendra