

Court No. - 93

Case :- APPLICATION U/S 482 No. - 43487 of 2023

Applicant :- Smt. Shirin Yusuf

Opposite Party :- State Of U.P. And 9 Others

Counsel for Applicant :- Vijeta

Kushwaha, Mahendra Kumar Yadav, Vaishali Singh

Counsel for Opposite Party :- G.A.

Hon'ble Manoj Bajaj, J.

Applicant-Complainant has filed this application under Section 482 Code of Criminal Procedure for issuance of directions to the Chief Metropolitan Magistrate, Kanpur Nagar for taking cognizance against the opposite party nos. 2 to 10 for alleged commission of offences punishable under Section 384 I.P.C. along with Sections 498-A, 323, 504, 506 I.P.C., Section 3/4 Dowry Prohibition Act, 1961 and in addition to the above offences, for the alleged commission of offences punishable under Section 377 I.P.C. against the opposite party no.2.

Learned counsel for applicant submits that on the basis of the complaint given by complainant, a case F.I.R. bearing Case Crime No. 97 of 2023 was registered under Sections 498-A, 323, 504, 506 I.P.C. and Section 3/4 Dowry Prohibition Act, 1961 at Police Station Swaroop Nagar, District Kanpur Nagar, wherein, the offences punishable under Section 384 I.P.C. against all the accused, and Section 377 I.P.C. against the accused Siraj Ahmad were not incorporated in the F.I.R. He submits that statements of the witnesses recorded during investigation also show the commission of these offences, but the Magistrate vide order dated 27.10.2023 has not taken the cognizance in relation to these offences.

Learned counsel for applicant further submits that after investigation, the final report submitted under Section 173(2) Cr.P.C., the accused have been sent to face trial only for the offences punishable under

Section 498-A, 323, 504, 506 I.P.C. and Section 3/4 Dowry Prohibition Act, 1961, whereas the other offence under Section 377 I.P.C. qua accused-Siraj Ahmad and Section 384 I.P.C. against all the accused has not been added. He prays that it would be in the interest of justice, if, the directions is issued to the court to take cognizance in respect of such offences.

Learned counsel for the applicant has been heard and with his assistance, the case file has been perused.

During the course of hearing, learned counsel for applicant has not disputed the fact that the final report dated 8.10.2023 submitted by the police under Section 173(2) Cr.P.C. is yet to be analyzed by the court of competent jurisdiction, as charges against the accused are yet to be framed.

Thus, at this stage, it will not be appropriate for this Court to direct the trial court to take cognizance of the alleged offences, which are not part of the final report, as the issues raised in this application can be effectively raised by the complainant-applicant before the trial court where the final report is pending consideration.

Resultantly, the application fails and is dismissed.

Order Date :- 29.11.2023
P.S.Parihar