

Court No. - 93

Case :- APPLICATION U/S 482 No. - 44393 of 2023

Applicant :- Moh. Sahib And 2 Others

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

Counsel for Applicant :- Syed Riyaz Askari, Mohd. Hasham, Syed Faiz Hasnain

Counsel for Opposite Party :- G.A.

Hon'ble Manoj Bajaj,J.

Applicants have approached this Court through this application under Section 482 Code of Criminal Procedure for quashing of Complaint Case No.2741 of 2018, titled Smt. Anjum Vs. Mohd. Sahib and others filed by the opposite party no.2, under Section 406 I.P.C., Police Station Bhopa, District Muzaffar Nagar and the proceedings arising out of it, on the basis of the written settlement arrived at between the parties dated 16.09.2019, (Annexure No.2).

Learned counsel for the applicants submits that a matrimonial dispute between the applicant no.1 and opposite party no.2 arose and it give rise to multiple litigation between them. However, during the proceedings of one such case an attempt before the Mediation and Conciliation Centre of this Court was made to explore the possibility of the compromise and the same was successful. In this regard, he has drawn the attention of the Court to the written settlement dated 16.09.2019 and submitted that all the cases filed by both the parties have been laid to rest, except the subject complaint bearing no.2741 of 2018 instituted by opposite party no.2.

Learned counsel for the applicants has drawn the attention of the Court to the *zimni* orders passed by this Court dated 11.03.2022 (Annexure No.1) and pointed out that the Court is insisting for the presence of the applicant and is not even allowing the applicant to place on record the written settlement arrived at between the complainant and

the accused and therefore, it has resulted miscarriage of them. He submits that on the other hand, the complainant is again settled in her life after remarriage and is not appearing before the court and the case is lingering on unnecessarily.

Upon hearing the learned counsel for the applicants and considering the above background, this Court finds that the stand of the applicants that the Magistrate has not allowed the applicants to place on record the written settlement dated 16.09.2019 arrived at between the parties, is without any basis.

During the course of hearing, learned counsel for the applicants is unable to show anything on record to indicate that ever any attempt was made by the applicants by moving an application or otherwise pointing out the issue of settlement before the trial court. Consequently, at this stage, this Court does not find it to be a fit case for exercise of inherent powers under Section 482 Code of Criminal Procedure. However, at the same time, liberty is granted to the applicants to move an application before the court to raise this ground by placing on record the written settlement dated 16.09.2019 and, if any, such application is moved, the trial court shall proceed with the same expeditiously, by ensuring the presence of the complainant to finally adjudicate the issue.

With these observations, the application is disposed of.

Order Date :- 5.12.2023

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