

Court No. - 12

Case :- APPLICATION U/S 482 No. - 1137 of 2018

Applicant :- Anil Kumar And Anr.

Opposite Party :- State Of U.P. And Anr.

Counsel for Applicant :- Subodh Kumar Shukla, Ashok Kumar Verma

Counsel for Opposite Party :- Govt. Advocate

Hon'ble Rajeev Singh, J.

1. Heard learned counsel for the applicants as well as learned A.G.A. for the State.
2. The present application has been filed for quashing the impugned charge-sheet dated 25.04.2015 arising out of Case Crime No.727 of 2014 U/s 363, 366, 376 I.P.C., Section 3/4 of Protection of Children from Sexual Offences Act, 2012, Police Station- Dhaurhara, District- Lakhimpur Kheri as well as order dated 07.02.2018 passed by learned Additional District Judge-I, Lakhimpur Kheri in Crl. Case No.133 of 2016 including entire proceedings thereof.
3. It is evident that on the basis of report of learned Chief Judicial Magistrate, Lakhimpur Kheri dated 27.03.2018, notice has already been served upon private respondent. But none appears on her behalf.
4. Learned counsel for the applicants submits that victim of the present case was willing to enter into marriage with applicant no.1 but her family members were against her wishes, as a result, she left her parental house and went with applicant. He further submits that due to annoyance, F.I.R. of the case in question was lodged by complainant and statement of victim was recorded U/s 164 Cr.P.C., in which, she categorically stated that she was being victimized by her family members, in this regard, she wanted to live with applicant. It is further submitted that at the time of said incident, victim denied the company of her mother, as a result, she was sent to women protective home and after attaining the age of majority, she joined the company of applicant. It is further submitted that now they are enjoying their matrimonial life and they have two kids (one is aged about six years, the other is aged about three years). It is, thus, submitted that trial of the case in question is futile one, hence, the impugned proceedings may be quashed.

5. Learned A.G.A. opposes the prayer of applicants but he does not dispute this fact that the victim has not supported the prosecution version during the course of investigation in her statement recorded U/s 164 Cr.P.C. He also admits that victim denied to join the company of her mother, therefore, she was sent to protection home.

6. Considering the submissions of learned counsel for the applicants, learned A.G.A. and going through the contents of application as well as other relevant documents; it is evident that during the course of investigation, victim has categorically stated in her statement recorded U/s 164 Cr.P.C. that she was being victimized by her family members, hence, she was willing to live with applicant. It is also evident that victim denied to join the company of her family members before learned Magistrate then she was sent to protection home; after attaining the age of majority, she join the company of applicant, and now they are enjoying their matrimonial life, they have two kids also. In such circumstances, this Court is of the view that trial of the case in question is futile one.

7. In view of above, the present application U/s 482 Cr.P.C. is **allowed** and the impugned charge-sheet dated 25.04.2015 arising out of Case Crime No.727 of 2014 U/s 363, 366, 376 I.P.C., Section 3/4 of Protection of Children from Sexual Offences Act, 2012, Police Station- Dhaurhara, District-Lakhimpur Kheri as well as order dated 07.02.2018 passed by learned Additional District Judge-I, Lakhimpur Kheri in Crl. Case No.133 of 2016 including entire proceedings thereof are hereby **quashed**.

8. Office is directed to communicate this order to learned trial court, forthwith.

Order Date :- 22.11.2023

Arpan