

Court No. - 9

Case :- APPLICATION U/S 482 No. - 6058 of 2023

Applicant :- Surendra Kumar @ Pappu And Others

Opposite Party :- State Of U.P. Thru. Secy. Home Civil Sectr. Lko. And Others

Counsel for Applicant :- Narendra Gupta

Counsel for Opposite Party :- G.A.

Hon'ble Dinesh Kumar Singh,J.

1. Heard learned counsel appearing for the accused-petitioner and learned Additional Government Advocate appearing for the State. Short counter affidavit filed by Sri Shiv Shankar Mishra, Advocate on behalf of opposite party No.2 is taken on record.

2. Present petition under Section 482 Cr.P.C. has been filed seeking quashing of the summoning order dated 25.11.2022 passed by Judicial Magistrate-I, Sitapur in Criminal Case No.44307 of 2022: State vs Surendra Kumar & Ors, arising out of Case Crime No.132 of 2020 under Sections 366, 147, 504, 352, 376, 342, 506 IPC, Police Station Talgaon, District Sitapur as well as charge-sheet dated 08.09.2020.

3. Initially, FIR came to be registered under Sections 366, 147, 504, 352, 376, 342, 506 IPC, Police Station Talgaon, District Sitapur. The prosecutrix, who is present in the Court, identified by her counsel Sri Alok Mishra, Advocate holding brief of Sri Shiv Shankar Mishra Advocate, states that she gave the statements under Sections 161 and 164 Cr.P.C. alleging enticement and commission of rape by petitioner No.1 under threat, duress and coercion of her parents. However, considering these submissions and statements of the other witnesses, charge-sheet came to be filed against the petitioner and other accused.

4. The prosecutrix, however, says that she performed marriage with the petitioner in Arya Samaj Mandir and marriage certificate has also been placed on record as annexure No.10 with his petition. After marriage she started living with petitioner No.1 and out of wedlock a son was born on 03.09.2021. As per the educational testimonial i.e. High School Certificate, her date of birth is 20.07.2001 and she was major when the alleged incident took place. Even as per medical examination of the prosecutrix, she was around 19 years of age. The prosecutrix does not want to prosecute her

husband with whom she has given birth to a male child. She is living with him. Keeping in mind the interest of the child as well as the parties, this Court finds that the continuance of the criminal proceedings in pursuance of the charge-sheet dated 08.09.2020 would be travesty of justice and would be nothing but an abuse of the process of the Court.

5. In view thereof, present petition is **allowed**. Proceedings of summoning order dated 25.11.2022 passed by Judicial Magistrate-I, Sitapur in Criminal Case No.44307 of 2022: State vs Surendra Kumar & Ors, arising out of Case Crime No.132 of 2020 under Sections 366, 147, 504, 352, 376, 342, 506 IPC, Police Station Talgaon, District Sitapur as well as charge-sheet dated 08.09.2020 are hereby quashed.

(Dinesh Kumar Singh, J.)

Order Date :- 23.6.2023
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