

Court No. - 28

Case :- APPLICATION U/S 482 No. - 9555 of 2023

Applicant :- Deenu @ Deen Mohammad And Another

Opposite Party :- State Of U.P. Thru. Prin. Secy. Home U.P. Lko. And 4 Others

Counsel for Applicant :- Shishir Pradhan

Counsel for Opposite Party :- G.A.,Mohd. Arshad

Hon'ble Shree Prakash Singh,J.

Heard learned counsel for the applicants, Sri Mohd. Arshad, learned counsel for opposite party no.2, Sri B.N. Nishad, learned A.G.A. for the State and perused the record.

The instant application under Section 482 Cr.P.C. has been filed for setting aside the entire proceedings of Sessions Trial No.111 of 2017, State of U.P. Vs. Deenu and another, in Case Crime No.78 of 2017 under Sections 363, 366, 376, 120-B I.P.C. and Section 3/4 of POCSO Act, Police Station Badosarai, District Barabanki on the basis of compromise deed dated 1.9.2023.

Learned counsel appearing for the applicants submits that the applicants are innocent and have falsely been implicated in the instant case. He next added that prosecutrix as per the radiological report was 18 years of age at the time of incident and she herself went away with the applicant no.1. He further submits that thereafter they performed marriage and they are living as husband and wife. Even the complainant has no objection as on date and the parties have amicably compromised their dispute. The compromise deed has been reduced in writing on 1.9.2023, which has been annexed as annexure no.6 to the instant application. He next added that now there is no grievance in between the parties with each other and the criminal proceedings against the applicants are the

futile exercise as there is no fate of trial and that is amount to harassment of the applicants and thus, the criminal proceedings against the applicants may be quashed.

In support of his contentions, he has placed reliance on a judgment rendered in **Vishwas Bhandari v. State of Punjab and another reported in (2021) 2 Supreme Court Cases 605, Criminal Appeal No.105 of 2021, dated 03.02.2021** and has placed reliance on paragraphs 9 and 10 and the same are extracted hereunder:-

"9. We find that the evidence of the prosecutrix and the complainant before the Court shows that there is no allegation whatsoever against the appellant. The main allegation was against Vikram Roop Rai but the prosecutrix married him on 4.8.2013 and had given birth to two children from that wedlock. In the absence of any allegation against the appellant, we find that the continuation of proceedings against him is nothing but an abuse of process of law.

10. Since there is no evidence against the appellant, the proceedings initiated against him on the basis of FIR would be untenable. The High Court was, thus, not justified in dismissing the petition against the appellant."

Referring the aforesaid, he submits that the case of the present applicants is squarely covered with the ratio of the Judgment aforesaid.

On the other hand, learned counsel appearing for the opposite party no.2 has supported the version of the learned counsel for the applicants and submits that the parties have settled their dispute amicably through a compromise deed and there is no further grievance of the opposite parties against the present applicants and the criminal proceedings against the applicants may be dropped.

Learned A.G.A. appearing for the State has no objection to the contentions aforesaid.

Now whether the parties have, in fact, compromised the matter or not, can best be ascertained by the court below as such compromise has to be duly verified in presence of the parties concerned before the Court.

Accordingly, this application is disposed of with a direction to the court concerned that if any such compromise is filed before it, it shall issue notices to all the signatories to the compromise requiring their personal presence and, thereafter, proceed to verify the compromise. If the aforesaid compromise is verified, a report to that effect shall be prepared by the court and the compromise will be made part of the record.

The court in that scenario will allow the parties to obtain certified copy of the report as well as compromise and it will be open to the applicants to approach this Court again for quashing of the proceedings.

For a period of two months, the proceedings in Sessions Trial No.111 of 2017, State of U.P. Vs. Deenu and another, arising out of Case Crime No.78 of 2017 under Sections 363, 366, 376, 120-B I.P.C. and Section 3/4 of POCSO Act, Police Station Badosarai, District Barabanki, shall remain stayed so far as applicants are concerned.

Office is directed to return the original compromise deed to the learned counsel for the applicants, if any, after taking the photocopy of the same.

Order Date :- 11.10.2023
Ram Murti