

Court No. - 12

Case :- APPLICATION U/S 482 No. - 9813 of 2023

Applicant :- Ram Kishor @ Kishor

Opposite Party :- State Of U.P. Thru. Addl. Chief Secy Home Deptt. Lko. And Another

Counsel for Applicant :- Lalit Kishore Tiwari, Karuna Shankar Tiwari

Counsel for Opposite Party :- G.A., Nitesh Yadav

Hon'ble Rajeev Singh, J.

1. Short counter affidavit filed by learned counsel for private respondent is taken on record.

2. In pursuance of order dated 10.10.2023, victim is present and she is duly identified by her counsel. She stated before the Court that she entered into marriage with the applicant on 14.07.2016 and as per the school leaving certificate, at the time of her marriage, she was aged about 17 years 11 months 22 days and now she is major, enjoying her matrimonial life with the applicant and having one kid aged about seven years, therefore, impugned proceedings may be quashed.

3. Heard learned counsel for the applicant, learned counsel for private respondent, learned A.G.A. for the State and perused the record.

4. Present application has been moved by the applicants for quashing the entire criminal proceedings of impugned Criminal Case No.1062 of 2016; State Vs. Kishor @ Ram Kishor arising out of charge sheet filed in case crime no.179 of 2016 under Sections 363, 366, 506, 376 I.P.C. and 3/4 of POCSO Act, P.S.- Itaunja, District- Lucknow pending before Special Judge POCSO Act, Lucknow.

5. Learned counsel for the applicant submitted that the applicant and victim were adolescent in age and they were willing to enter into marriage but the parents of the victim were not agreeing to their wish, as a result, prior to attaining the age of majority, victim left her house and went with the applicant, thereafter, on the basis of incorrect facts, F.I.R. in question was lodged, as at the time of incident, victim was aged about 17 years, 11 months, 22 days old which is only 8 days short for attaining the age of majority. He further submitted that during the course of investigation, statement of victim was recorded under Section 161 Cr.P.C., in which, she categorically denied

the prosecution story. He further submitted that her medico-legal examination was also conducted, in which, she was found pregnant. He further submitted that her statement under Section 164 Cr.P.C. was also recorded, in which, she reiterated the same facts but the charge sheet was submitted by the Investigating Officer. He further submitted that as the victim denied to go with her parents, she was sent to Women Protective Home, during the course of investigation, in her ossification test, age of victim was found to be more than 18 years, and thereafter, she was allowed to go to the applicant and now there is no possibility of conviction of applicant as the victim has categorically denied the prosecution story since very beginning and they are enjoying their matrimonial life, therefore, impugned proceedings may be quashed.

6. Learned counsel for the private respondent supported the arguments of learned counsel for the applicant and he has no objection, in case, the impugned proceedings be quashed.

7. Learned A.G.A. opposed the prayer of applicant and submitted that as the victim was few days short from attaining the age of majority, as a result, charge sheet was filed by the Investigating Officer with the offence of POCSO Act but he does not dispute this fact that the victim has not supported the prosecution version in her statements recorded under Sections 161 and 164 Cr.P.C., as in the medico-legal examination, the pregnancy was found.

8. Considering the submissions of learned counsel for the parties, going through the contents of application, statement of victim recorded under Sections 161 and 164 Cr.P.C. as well as other relevant documents, as it is evident that in the ossification test of victim, she was found major, and at the time of medico-legal examination, victim was found pregnant, as she does not support the prosecution version since very beginning and now she is enjoying her matrimonial life with the applicant and having one kid, therefore, I am of the view that the impugned proceedings are liable to be dropped.

9. Accoringly the application is **allowed** and entire criminal proceedings of impugned Criminal Case No.1062 of 2016; State Vs. Kishor @ Ram Kishor arising out of charge sheet filed in case crime no.179 of 2016 under Sections 363, 366, 506, 376 I.P.C. and 3/4 of POCSO Act, P.S.- Itaunja, District- Lucknow pending before Special Judge POCSO Act, Lucknow are hereby **quashed**.

Order Date :- 6.11.2023

V. Sinha