

Court No. - 28

Case :- APPLICATION U/S 482 No. - 9875 of 2023

Applicant :- Avdhesh Rathaur @ Avdhesh Kumar

Opposite Party :- State Of U.P. Thru. Prin. Secy. Home Deptt. Lko. And 2 Others

Counsel for Applicant :- Santosh Kumar Kanaujia

Counsel for Opposite Party :- G.A., Tufail Ahmad

Hon'ble Shree Prakash Singh, J.

In compliance of the order dated 10-10-2023, the applicant, namely Avdhesh Rathaur @ Avdhesh Kumar and the opposite party no. 2 namely, Ruby Devi, the alleged victim, are present in person before this court.

On query being asked, the opposite party no. 2 replied that her brother has lodged the first information report though there is no truthfulness in the same. She further says that she went away with the applicant with her own sweet will and performed marriage with him on 24-04-2013 and there are two children from their wedlock. She added that they are living as husband and wife and she has no grudge against the applicant.

Learned counsel appearing for the applicant submits that the first information report has been lodged by the brother of the alleged victim under annoyance and the Investigating Officer, without collecting the material evidence, filed the chargesheet. He next added that it is not a case where the applicant has enticed away the alleged victim, but, she herself went away with the applicant and thereafter, they performed marriage on 24-04-2013 and the said marriage has also been got registered in the office of the Sub. Registrar, Gola-Gokarannath, Lakhimpur Kheri on 22-09-2023. He added that there are two children from the wedlock of the applicant and the alleged victim and they are living as husband and wife and allowing the further criminal proceedings, would amount to harassment of the applicant as there is no fate of the trial.

In support of his contentions, he has placed

reliance on the Judgment rendered in the case of **Vishwas Bhandari Vs. State of Punjab and another** reported in **(2021) Supreme Court Cases, 605, Criminal Appeal No. 105 of 2021, dated 03-02-2021** and submitted that the case of the applicant is squarely covered with the ratio of the Judgment aforesaid and the criminal proceedings against the applicant may be quashed.

On the other hand, learned counsel for opposite party no.2 has also supported the version of the counsel for the applicant and submitted that the applicant and opposite party no.2 have performed marriage and they are living as husband and wife and there are 2 children out of their wedlock. He also submitted that the proceedings against the present applicant may be dropped.

Per contra, learned AGA for the State has opposed the contentions aforesaid on merits, but , he has no objection to the contention that the applicant and the alleged victim are living as husband and wife and there is no dispute between them.

Considering the submissions of learned counsels for the parties and after perusal of material placed on record, it transpires that initially the first information report was lodged by the brother of the alleged victim against the applicant and thereafter the chargesheet was filed. It transpires from the record that the applicant and the alleged victim have performed marriage in the year 2013 and their marriage was also got registered, copy of the registration of marriage certificate has also been annexed with the instant application.

This court has noticed the fact that admittedly, there are two children from the wedlock of the applicant and the alleged victim and they are living as husband and wife and the alleged victim, who is present in person before this court, has supported the version of the applicant. The law in this regard has been settled in the case of **Vishwas Bhandari Vs. State of Punjab and another (Supra)** and the case of the applicant is squarely covered with the ratio of the Judgment.

Resultantly, the proceedings initiated in pursuance of Case No.337 of 2015 (Old Case No. 3345 of 2013) State versus Avadhesh Rathaur as well as summoning order dated 23.12.2013 passed by Judicial Magistrate II, Lucknow and Charge Sheet No.133 of 2013 dated 13.11.2013, arising out of Case Crime No. 106 of 2013, Under Sections- 363, 366 of I.P.C, registered at Police Station-Hasanganj, District- Lucknow, pending in the Court of Judicial Magistrate II, Lucknow, are hereby quashed.

The application under section 482 Cr.P.C. is **allowed**.

Consequences shall be followed.

Office shall communicate this order to the trial court concerned forthwith.

Consigned to record.

Order Date :- 1.11.2023

AKS