

Court No. - 12

Case :- APPLICATION U/S 482 No. - 10497 of 2023

Applicant :- Sakir Ali

Opposite Party :- Add. Session Judge Court 2 Lakhimpur
Kheri And 8 Others

Counsel for Applicant :- Arun Prakash Shukla, Ashok Kumar

Hon'ble Rajeev Singh, J.

1. Learned counsel for the applicant is permitted to delete the applicant no.1 and 2 forthwith and also implead State of U.P. as respondent no.1 through Secretary Department of Home.

2. Heard learned counsel for the applicant, learned AGA and perused the record.

3. Present petition has been filed with the following prayer:-

"To quash the impugned order dated 07.08.2023, in Crl. revision No.74/2021 (Sakir Ali Vs. Margoob Ali & Ors.), passed by add. Session judge court no.2 Lakhimpur Kheri as well as order dated 08.12.2021 bearing complaint no 876/2021 (Sakir Ali Vs. Margoob Ali) passed by additional chief judicial magistrate court no.3 Lakhimpur Kheri."

4. Learned counsel for the applicant submitted that on the pretext of marriage respondent no.2 was making physical relation with the daughter of the applicant. On 24.10.2020 victim informed about her relation to her father and thereafter their engagement was solemnized and Rs. 2,55,000/- cash was given by the applicant and certain articles amounting Rs. 25,000/- were also given and the marriage was scheduled on 12.04.2021. But on 10.04.2021 respondent no.2 solemnized marriage with some other girl. Neighbor of the victim, Shahrin was also facilitating the respondent no.2 for making physical relations with the daughter of the complainant and thereafter the application was given for lodging of the FIR but the same was not registered then application under Section 156 (3) CrPC was moved which was treated as a complaint case and after recording of statement under Section 200 and 202 CrPC summoning order was passed for the offense under Section 420, 506 and under Section 4 of D.P. Act against the respondent no.2 and under Section 506 IPC and under Section 4 of D.P. Act against Mahmood Ali, Jamshed Ali and Alimulnisha and Shagusta and it is also submitted that learned Magistrate was under obligation to summon the private respondent no. 2 under Section 376 IPC and thereafter revision was filed which was

also rejected. Learned counsel for the applicant also relied on the decision of Hon'ble Apex Court in the case of Criminal Appeal 1184 of 2022, therefore kind indulgence of this Court is necessary.

5. Learned AGA vehemently opposed the prayer of the applicant and submitted it is undisputed fact that the victim is major lady aged about 25 years and the application was given after the marriage of respondent no.2 Margoob Ali with Shahreen. Therefore, no offense under Section 376 IPC is made out, therefore, learned court below has rightly passed the order. He also submitted that the judgement relied upon by the learned counsel for the applicant is not applicable on the basis of the different facts of the present case.

6. Considering the submissions of rival parties and going through the contents of petition, as well as impugned order and other relevant documents, Statement recorded under Sections 200 and 202 CrPC, as it is undisputed fact that the marriage of Margoob Ali was solemnized on 10.4.2021 with Shahreen and thereafter the complaint in question was filed with the allegation that daughter of the applicant was in relation with the Margoob Ali, and on the pretext of marriage they were making physical relations as she informed the applicant and thereafter the marriage was settled but in place of solemnizing the marriage with the daughter of applicant he entered into marriage with Shahreen on 10.4.2021. As the victim is a prudent lady therefore it cannot be said that physical relations were made on the pretext of marriage.

7. Therefore, there is no illegality in the impugned order.

8. The petition is mis-concieved and is **dismissed**, accordingly.

Order Date :- 27.10.2023

Vipul