

**Court No. - 28**

**Case :-** APPLICATION U/S 482 No. - 10689 of 2023

**Applicant :-** Abhishek Alias Abhishek Kumar

**Opposite Party :-** State Of U.P. Thru. Prin.Secy. Home And Another

**Counsel for Applicant :-** Dinesh Kumar

**Counsel for Opposite Party :-** G.A.

**Hon'ble Shree Prakash Singh,J.**

Sri Govind Yadav, Advocate has put in appearance by filing Vakalatnama on behalf of opposite party no.2/prosecutrix and the same is taken on record.

Heard Sri Dinesh Kumar, learned counsel for the applicant, Sri B.N. Nishad, learned A.G.A. for the State, Sri Govind Yadav, learned counsel for the opposite party no. 2/prosecutrix and perused the record.

By means of the instant application, the applicant has prayed to quash the entire proceeding of case No. 1508/2018 arising out of case. crime No. 239/2017 Under Section 376, 323, 506, 507 I.P.C Police Station Ajgain, District-Unnao as well as impugned summoning order dated 19/09/2018 passed by Judicial Magistrate, Unnao in Case No. 1508/2018, case crime No. 239/2017 Under Section 376,323,506,507 I.P.C Police Station Ajgain, District-Unnao and impugned chargesheet No. 122/2017 dated 27/06/2017 filed in case crime No. 239/2017 Under Section 376, 323, 506, 507 of I.P.C Police Station Ajgain, District-Unnao Pending in the court of A.C.J.M-III, Unnao.

Learned counsel appearing for the applicant submits that initially, due to misconception the first information report was lodged and even allegation of committing rape upon the complainant has also been mentioned in the FIR. he added that no such rape has ever been committed though, the opposite party no. 2 and the applicant were in live-in-relation and thereafter, they have performed marriage, that too was registered in the office of the Registrar on 18.03.2017. He added that thereafter the family members also come to rescue and they sat together and compromise was executed in between the parties and that has been reduced in writing on 14.06.2023 and now there is no dispute in between the parties and they are living as husband and wife.

Learned counsel for the applicant 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."*

He has also placed reliance on judgment rendered in **Sachin Jain v. State of Govt. of NCT of Delhi and another, Criminal Appeal No.510 of 2022 (Special Leave Petition (Criminal) NO.3009 of 2022.**

Referring the aforesaid judgments, he submits that since the parties have settled the dispute and they have got married and they are living as husband and wife and there is no dispute further in between the parties. He next added that this Court vide order dated 25.08.2023 passed in Application under Section 482 No. 8472 of 2023, referred the matter to the Court below, wherein the compromise deed has been verified vide order dated 05.10.2023. He submits that further criminal proceedings against the present applicant, in such a situation, would be a futile exercise and amount to harassment of the applicant, as such, the same may be quashed.

On the other hand, learned counsel for the opposite party no. 2 has also supported the version of learned counsel for the applicant and submits that the parties have entered into compromise in the light of ratio of judgment rendered in Vishwas Bhandari (supra) and thus the criminal proceeding against the applicant may be dropped.

On the other hand, learned AGA appearing for the State has no objection to the contentions aforesaid.

Considering the aforesaid submissions of the learned counsel

for the parties, I find that compromise has been entered into between the parties on 14.06.2023 and said compromise has been verified on 05.10.2023 and, now, as per the statement of learned counsel for the parties, they do not want to press the aforementioned criminal case relating to Case Crime No. 239 of 2017.

In view of the above, as the applicant and opposite parties have entered into compromise on 14.06.2023 and no grievance remains to be agitated and as such, further criminal proceedings in the aforementioned criminal case are liable to be set aside in view of the Judgements of the Apex Court rendered in **B.S. Joshi and others Vs. State of Haryana and another (2003)4 SCC 675; Nikhil Merchant Vs. Central Bureau of Investigation[2008]9 SCC 677; Manoj Sharma Vs. State and others ( 2008) 16 SCC 1; Gian Singh Vs. State of Punjab (2012) 10 SCC 303; and Narindra Singh and others Vs. State of Punjab ( 2014) 6 SCC 466.**

Accordingly, criminal proceedings of case No. 1508/2018 arising out of case. crime No. 239/2017 Under Section 376, 323, 506, 507 I.P.C Police Station Ajgain, District-Unnao as well as impugned summoning order dated 19/09/2018 passed by Judicial Magistrate, Unnao in Case No. 1508/2018 and impugned chargesheet No. 122/2017 dated 27/06/2017 filed in case crime No. 239/2017 Under Section 376, 323, 506, 507 of I.P.C Police Station Ajgain, District-Unnao Pending in the court of A.C.J.M-III, Unnao are hereby quashed.

The compromise shall be part of this order.

The application is allowed accordingly.

Consigned to record.

**Order Date :- 1.11.2023**

Mayank