

Court No. - 10

Case :- CRIMINAL MISC. WRIT PETITION No. - 8705 of 2023

Petitioner :- Pawan Kunwar Mishra And Others

Respondent :- State Of U.P. Thru. Prin. Secy. Home Civil Sectt. Lko And Others

Counsel for Petitioner :- Himanshu Kumar Srivastava

Counsel for Respondent :- G. A.

Hon'ble Mrs. Sangeeta Chandra,J.

Hon'ble Narendra Kumar Johari,J.

Heard learned counsel for the petitioner and learned A.G.A. for the State-respondents.

This petition has been filed praying the following reliefs:-

(a) Issue a writ, order or direction in the nature of certiorari thereby quashing the impugned first information dated 11.1.2022 vide case crime no. 0019 of 2022 under Section 498-A, 323, 504, 506, 494 I.P.C. and 3/4 of the Dowry Prohibition Act., lodged at Police Station- Ashiyana, District- Lucknow as contained in Annexure-1 to this writ petition.

(b) Issue a writ, order or direction in the nature of mandamus commanding the opposite party not to harass, detain or prosecute the petitioner in pursuance of the impugned F.I.R.

It has been submitted by the learned counsel for the petitioners that the dispute between the parties is matrimonial in nature. A compromise has occurred between the parties. Copy of such compromise has been annexed as Annexure-2 to the writ petition.

Sri Shiv Kumar Srivastava has filed his power on behalf of the opposite party no. 4. He has also filed a short counter affidavit in which he does dispute the compromise took place between the parties.

Learned A.G.A. has produced before this Court the instruction sent by Sub Inspector Sandeep Kumar Mishra, Police Station- Ashiyana, District- Lucknow wherein it has been stated that Section 494 I.P.c has been deleted during the course of investigation. Charge sheet has been prepared against Pawan Kumar Mishra, Uma Shankar Mishra and Smt. Preeti Mishra

under Section 498-A, 323, 504, 506 I.P.C and 3/4 of the Dowry Prohibition Act and submitted to Supervisory Authority/Circle Offfficer- Assistant Commissioner of Police Cantt., District- Lucknow on 18.4.2022.

This writ petition is **disposed of** with a direction to the petitioners to approach the Assistant Commissioner of Police Cantt., District- Lucknow along with opposite party no. 4 and the original copy of the compromise. The Circle Officer- Assistant Commissioner of Police Cantt., District- Lucknow shall take the same into account and submit a report regarding the same to the court concerned. Since the charge sheet has been prepared more than a year ago, it is not clear whether the same has been actually submitted in court. If it has been submitted in court then in that situation the petitioner has a remedy under Section 482 Cr.P.C.

Certified/original copy of the compromise shall be returned by the office to the learned counsel for the petitioners after retaining its photocopy.

Order Date :- 17.11.2023

Anuj Singh