Court No. - 12

Case :- APPLICATION U/S 482 No. - 11673 of 2023

Applicant :- Pankaj Kumar
Opposite Party :- State Of U.P. Thru. Prin. Secy. Deptt. Of Home Lko. And 3 Others
Counsel for Applicant :- Arpit Singh
Counsel for Opposite Party :- G.A.,Ram Ashish Harijan

Hon'ble Rajeev Singh,J.

1. Heard learned counsel for the applicant, learned counsel for the private respondent and learned A.G.A. for the State.

2. The present application under Section 482 Cr.P.C. is filed with the prayer to quash/set-aside the entire proceedings of Sessions Trial No.622/2020 (State Versus Pankaj Kumar) pending in the court of Additional District Judge/POCSO Act, First, Lucknow initiated in pursuance of the impugned charge sheet dated 3.6.2020 arising out of Case Crime No. 198/2020, Under Section- 376 IPC, section 3 (2)(5) SC/ST Act & section 3/4 POCSO Act, Police Station-P.G.I., District- Lucknow.

3. In pursuance of earlier order, parties are present & they have been duly identified by their respective counsels and report of Mr. Vikas Tiwri, Sub Inspector, Police Station S.G.P.G.I., Lucknow, dated 18.12.2023 is placed by learned A.G.A., which, reveals that marriage of the victim was solemnized with the applicant and out of their wedlock, one daughter was born on 8.5.2023, named Kavya and birth certificate of Kavya is placed by learned A.G.A. alongwith photograph.

4. Learned counsel for the applicant has submitted that victim was willing to enter into marriage with the applicant but her family members were against her wishes, as a result, she left her house and came with the applicant, thereafter, on the basis of incorrect facts, F.I.R. of the case in question was lodged. He further submitted that during the course of instigation, statement of victim were recorded under Sections 161 as well as 164 Cr.P.C., in which, she stated that applicant

denied the marriage, as a result, F.I.R. of the case in question was lodged. He next submitted that now the marriage of the applicant has been solemnized with the victim and they are enjoying their matrimonial life and in ossification test, age of the victim is found 19 years, therefore, trial is a futile exercise and proceeding pending before the trial court may be quashed.

5. Learned counsel for the private respondent has also supported the arguments of learned counsel for the applicant and stated that she is enjoying her and is very happy.

6. Learned A.G.A. has submitted that charge sheet has already been filed by the Investigating Officer but he does not dispute this fact that in ossification test, age of the victim was found 19 years. He further submitted that as per the recent report of Mr. Vikas Tiwri, Sub Inspector, Police Station S.G.P.G.I., Lucknow, dated 18.12.2023, marriage of the applicant has already been solemnized with the victim and now they are having one daughter.

7. Considering the submissions of learned counsel for the parties, going through the record, it is evident from the record that applicant and victim were in association but the applicant denied the marriage with the victim, as a result, F.I.R. was lodged but now marriage of the victim has already been solemnized with the applicant and they are enjoying their matrimonial life, therefore, trial is a futile exercise, in such circumstances, the impugned proceeding is liable to be set aside.

8. In view of the above, the present application under Section 482 Cr.P.C. is **allowed** and the impugned proceeding is quashed.

9. Office is directed to communicate this order to the trial court as well as concerned police station.

Order Date :- 18.12.2023
Gaurav/-

Digitally signed by :-
GAURAV PAL
High Court of Judicature at Allahabad,
Lucknow Bench