

Court No. - 11

Case :- APPLICATION U/S 482 No. - 11422 of 2023

Applicant :- Pankaj @ Pankaj Yadav And Another

Opposite Party :- State Of U.P. Thru. Addl. Chief Secy. Deptt. Of Home, Lko. And Others

Counsel for Applicant :- Narsingh Narain Lal

Counsel for Opposite Party :- G.A.

Hon'ble Saurabh Lavania,J.

Heard.

The applicants namely, Pankaj @ Pankaj Yadav and Smt Mala Devi, W/o Pankaj @ Pankaj Yadav have filed the present application under Section 482 CrPC seeking following relief:-

"Wherefore, it is most respectfully prayed that this Hon'ble Court may, in exercise of powers as vested u/s 482 Cr.P.C. set aside entire proceedings in criminal case no.835/11 arising out of case crime No. 657/10 u/s 363 and 366 IPC State of UP vs. Pankaj Kumar & Another pending in the court of Addl. Civil Judge (J.D.) I/ Judicial Magistrate Ambedkarnagar as well as Cognizance/summoning order dated 14.04.11 including the subsequent orders of NBW and S.82 Cr.PC and quash Charge sheet dated 29.08.10, on which the learned Magistrate has taken cognizance of the alleged offence."

The Hon'ble Court may, considering the facts and circumstances, material evidences as well as settled principles of law, further be pleased to stay the further proceedings in criminal case no.835/11, case crime No. 657/10 u/s 363 and 366 IPC State of UP vs. Pankaj Kumar & Another pending in the court of Addl. Civil Judge (J.D.) I/ Judicial Magistrate Ambedkarnagar during the pendency of the present petition in the interest of justice."

It would be apt to refer that the applicant no.1-Pankaj @ Pankaj Yadav and applicant no.2-Smt Mala Devi, W/o Pankaj @ Pankaj Yadav are present Court in person and both the applicants have been identified by the counsel for the applicant namely Shri Narsingh Narain Lal.

In regard to the relief sought, it is stated that the marriage between the applicants was solemnized on 29.05.2010 and on

account of threat/ harassment by the police personnel at the behest of the family members of the applicant No.2, the applicants preferred Writ Petition No.6800 M/B 2010, (Smt Mala Devi and another vs. State of U.P. and others), seeking protection in the light of the judgment of the Hon'ble Apex Court passed in the Case of **Lata Singh vs. State of U.P.** reported in **2006 (2) SCC 522**. This Court after considering all the aforesaid facts and the statement of Smt Mala Devi, W/o Pankaj @ Pankaj Yadav protected the interest of the applicants vide order dated 29.07.2010, the same being relevant on the production reads as under:-

"Heard learned counsel for the petitioners and learned A.G.A.

The submission of the learned counsel for the petitioners is that the petitioners being major entered into the marriage on 29.05.2010 and they have performed marriage on their own free will. The age of petitioner no.1 (Mala Devi) as per medical certificate issued by the Chief Medical Officer, Ambedkar Nagar is about 19 years vide Annexure No.1 to the writ petition. Learned counsel for the petitioners submits that as per law laid down by the Hon'ble Apex Court in the case of Lata Singh Vs. State of U.P. and another reported in 2006 (2) SCC 522, The petitioners no.1 being major can marry and live with anyone she likes. Petitioners are living as wife and husband. Since the parents of the petitioner no.1 were not ready for the marriage of the petitioners, therefore, the police at their instance is unnecessarily harassing the petitioners. The petitioners, therefore, need protection.

The petitioner no.1 (Mala Devi) is present today before this Court and states that she being major has married with petitioner no.2 (Pankaj) and they are living as husband and wife.

Keeping in view the totality of the facts and circumstances of the case, as well as statement of the petitioner no.1 (Mala Devi), the petition is finally disposed of with the observation that the Superintendent of Police, Ambedkar Nagar to ensure that the petitioners are not being harassed by the Police unnecessarily."

It is also stated that the applicants are living happy and peaceful life under one roof with two sons at Ghaziabad.

It is also stated that the FIR was lodged by one Ram Achal Gupta (father of applicant No.2-Smt Mala Devi, W/o Pankaj @ Pankaj Yadav) and the police authorities despite the order passed by this Court on 29.07.2010 as also ignoring the fact that the applicant was major at the relevant time filed the charge

sheet and the trial court has also taken cognizance on the said charge sheet as would appear from the Cognizance/summoning order dated 14.04.2011 (annexure No.7 to the present application).

It is also stated that in the facts of the present case, as stated above, particularly the fact that the applicant No.1 and 2 are living happy and peaceful married life along with two sons and both the applicants are major, it would be futile exercise to proceed with the trial and there is no chance of conviction.

At this stage, on being asked, the applicants present in person supported all facts as indicated above.

Considering the aforesaid undisputed fact as also the law laid down by the Hon'ble Apex Court passed in the case of **Romgopal and others Vs. State of Madhya Pradesh, 2022 (1) SCJ 536, Gian Singh Vs. State of Punjab [2012 10 SCC 303], Mohd. Ibrahim Vs. State of U.P., 2022 SCC Online ALL 106, Gold Quest International Ltd. Vs. State of Tamilnadu, 2014 (15) SCC 235, B.S. Joshi Vs. State of Haryana, 2003 (4) SCC 675, Jitendra Raghuvanshi Vs. Babita Raghuvanshi, 2013(4) SCC 58, Madhavarao Jiwajirao Scindia Vs. Sambhajirao Chandrojirao Angre, 1988 1 SCC 692, Nikhil Merchant Vs. C.B.I. and another, 2008(9) SCC 677, Manoj Sharma Vs. State and others, 2008(16) SCC 1, State of M.P. Vs. Laxmi Narayan and others, 2019(5) SCC 688, Narindra Singh and others Vs. State of Punjab and another, (2014) 6 SCC 466, Manoj Kumar and others Vs. State of U.P and others (2008) 8 SCC 781, Union Carbide Corporation and others Vs. Union of India and others (1991) 4 SCC 584, Manohar Lal Sharma Vs. Principal Secretary and others (2014) 2 SCC 532 and Supreme Court Bar Association Vs. Union of India (1998) 4 SCC 409, this Court finds that in the trial, there is no chance of conviction and it would a futile**

exercise to continue with the trial. Accordingly, this Court is of the view that indulgence of this Court is required in the matter.

Accordingly, the present application is **allowed**. The entire proceedings of Criminal Case No.835 of 2011, arising out of Case Crime No. 657 of 2010 under Section 363 and 366 IPC, (State of UP vs. Pankaj Kumar and Another), pending in the court of Addl. Civil Judge (J.D.) I/ Judicial Magistrate Ambedkar Nagar including Cognizance/summoning order dated 14.04.2011 and the subsequent orders of NBW as also the Charge sheet dated 29.08.2010 are hereby quashed.

Order Date :- 22.11.2023

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