

Court No. - 12

Case :- APPLICATION U/S 482 No. - 12020 of 2023

Applicant :- Deenu And Another

Opposite Party :- State Of U.P. Thru. Its Prin. Secy. Home, U.P. Lko. And Others

Counsel for Applicant :- Shishir Pradhan

Counsel for Opposite Party :- G.A.,Mohd Arshad,Mohd. Arshad

Hon'ble Rajeev Singh,J.

1. Heard learned counsel for the applicants, learned A.G.A. for the State and perused the material brought on record.
2. This application has been filed for quashing the entire proceedings of S.T. No. 111 of 2017, (State Vs. Deenu & Anr.) arising out of Case Crime No. 78 of 2017, under Sections 363, 366, 376, 120-B I.P.C. and Section 3/4 of POCSO Act, P.S. Badosarai, District Barabanki.
3. In pursuance of the earlier order dated 11.12.2023, applicants as well as informant of the present case are present before this Court along with Sub-Inspector, Salik Rai and Lady Constable Soni Sharma, P.S. Badosarai, District Barabanki and have been duly identified by their respective counsel.
4. Learned counsel for the applicants submits that applicant no. 1 and victim were in love relation and the victim was keen to solemnize Nikah with him, but the family members of applicant no. 1 were not agreed to the same, due to which, the F.I.R. was lodged. It is further submitted that thereafter, Nikah of the victim was solemnized with applicant no. 1 on 13.02.2017 in accordance with Shariyat laws, but the marriage could not survive and, therefore, divorce took place in between them on 05.12.2019. In the meantime, charge sheet was submitted by the Investigating Officer under Sections 363, 366, 376, 120-B I.P.C. and Section 3/4 of POCSO Act. It is also submitted that in the ossification test, the victim was

found aged about 18 years. Learned counsel for the applicants also informs that after divorce, the victim again entered into Nikah with one Mohd. Roshan and she is enjoying her matrimonial life with him and she does not want to pursue the case in question. It is next submitted that this statement was also given by the victim before Special Judge (POCSO Act) on 27.10.2023. It is, thus, submitted that the trial of the case in question would be futile one and, therefore, the impugned proceedings may be quashed.

5. Learned A.G.A. opposes the prayer of the applicants and submits that the charge sheet has already been filed by the Investigating Officer. However, he does not dispute the fact that in the ossification test, the age of the victim was found to be 18 years. He also does not dispute that the Nikah of applicant no. 1 was solemnized with the victim in the year 2017 and after divorce, she entered into Nikah with one Mohd. Roshan.

6. The victim as well as informant, who are present before this Court, also state that Nikah of the victim was solemnized with applicant no. 1, but after two years, divorce was taken place. Thereafter, in the year 2020, the Nikah of the victim was solemnized with Mohd. Roshan. They also categorically state that they do not want to pursue the prosecution in question. They further inform that this statement has been given before the court below at the time of verification of the compromise dated 01.09.2023 arrived in between the parties.

7. Considering the arguments advanced by the learned counsel for the applicants, learned A.G.A. and the consent given by the informant and the victim as well as going through the contents of the application and other relevant documents including the compromise dated 01.09.2023, it is evident that the victim entered into Nikah with applicant no. 1 in the year 2017. Thereafter, divorce took place in between them and the victim again entered into Nikah with

one Mohd. Roshan. From the compromise dated 01.09.2023, it is evident that the victim does not want to prosecute the applicant as she is enjoying her matrimonial life. It is also evident from the record that the victim also stated the aforesaid facts before the Sessions Judge, who verified the contents of the settlement arrived at in between the parties on 01.09.2023.

8. In view of above facts and discussions, this Court is of the view that the trial of the case in question would be futile one. The application stands allowed. Entire proceedings of S.T. No. 111 of 2017 are hereby quashed.

9. Office is directed to communicate this order to the court concerned, forthwith.

Order Date :- 22.12.2023

VKS