

Court No. - 15

Case :- APPLICATION U/S 482 No. - 12037 of 2023

Applicant :- Ritesh Gupta

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

Counsel for Applicant :- Ramakar Shukla

Counsel for Opposite Party :- G.A.

Hon'ble Shamim Ahmed,J.

1. Heard Shri Ramakar Shukla, learned counsel for the applicant as well as the learned A.G.A. for the State and perused the record.

2. This application Section 482, Cr.P.C. has been filed by the applicant seeking quashing of Chargesheet dated 19.08.2023 arising out of Case Crime No. 629 of 2023, State v. State v. Ritesh Gupta, under Sections 376, 504, 506, I.P.C., P.S. Kotwali Nagar, District Sultanpur, pending before the Court of learned Chief Judicial Magistrate (Court No. 16), Sultanpur, as well as the cognizance/summoning order dated 20.10.2023 passed in the said case.

3. The complainant/opp. party No. 2 has lodged an F.I.R. on 08.07.2023 at 18:11 hrs. alleging that she is aged about 19 years and permanent resident of Govindpur, P.S. Jaisinghpur, District Sultanpur. She is preparing for competitive exams, taking a house on rent in City Sultanpur. During coaching, she came across the applicant and a love-affair developed between them. The applicant on the pretext of marrying the complainant, kept on making physical relations with her since April, 2022. When the complainant talked to the applicant about marriage, he used to postpone the marriage by saying that first let him procure a job, but kept on making physical relations with her. On 24.5.2023, when the complainant's health deteriorated, the applicant got her admitted in Aarohi Hospital, Sultanpur, and on the next day, getting her discharged left the complainant at her room and said 'I am going and will come soon and marry you. The complainant kept on talking to the applicant continuously, and the applicant promising her for day and tomorrow, kept on denying the marriage. On 16.06.2023 at about 07:30 p.m.

during conversation the applicant abused the complainant badly in the name of mother and sister, and denied the marriage. He further said that if you make a phone-call again, you will have to wash hands from your life. At the present time, she is student of Class B.A. Final.

4. Learned counsel for the applicant submits that the applicant is innocent and he has been falsely implicated in the case due to enmity. The present F.I.R. has been lodged by the applicant with some ulterior motive. The allegations levelled in the F.I.R. are totally false and the applicant has no concern with these complainant. He further submits that for a moment if it is assumed that the allegations leveled against the applicant are true, then also whatever is said to have happened with the complainant, that has happened with her consent and she is a major as per the F.I.R. version. It is also submitted that the applicant has been released on bail. He prays for quashing of the impugned chargesheet and the entire criminal proceeding based on the said chargesheet.

5. Learned A.G.A. has vehemently opposed the prayer for quashing of the impugned chargesheet saying that it is not appropriate stage to quash the proceedings. Applicant has already been granted the liberty of bail. Rest will be seen by the court after adducing of evidence by the parties in the court. If applicant is not found guilty, proceedings would automatically be quashed.

6. From the perusal of the materials on record and looking into the facts of the case and after considering the arguments made at the bar, it does not appear that no offence has been made out against the appellant.

7. At the stage of issuing process the court below is not expected to examine and assess in detail the material placed on record, only this has to be seen whether *prima facie* cognizable offence is disclosed or not. The Apex Court has also laid down the guidelines where the criminal proceedings could be interfered and quashed in exercise of its power by the High Court in the following cases:-(i) **R.P. Kapoor Vs. State of Punjab, AIR 1960 S.C. 866**, (ii) **State of Haryana Vs. Bhajanlal, 1992 SCC (Crl.)426**, (iii) **State of Bihar Vs. P.P. Sharma, 1992 SCC (Crl.)192** and (iv) **Zandu Pharmaceutical**

Works Ltd. Vs. Mohd. Saraful Haq and another, (Para-10)
2005 SCC (Cri.)283.

8. From the aforesaid decisions the Apex Court has settled the legal position for quashing of the proceedings at the initial stage. The test to be applied by the court is as to whether uncontroverted allegation, as made, *prima facie* establishes the offence and the chances of ultimate conviction is bleak and no useful purpose is likely to be served by allowing criminal proceedings to be continue. In **S.W. Palankattkar & others Vs. State of Bihar, 2002 (44) ACC 168**, it has been held by the Hon'ble Apex Court that quashing of the criminal proceedings is an exception than a rule.

9. The High Court would not embark upon an inquiry as it is the function of the Trial Judge/Court. The interference at the threshold of quashing of the charge sheet/criminal proceedings in case in hand cannot be said to be exceptional as it discloses *prima facie* commission of an offence. In the result, the prayer made for quashing is refused. The appellant has ample opportunity to raise all the objections at the appropriate stage. With these observations the instant appeal is **dismissed**.

(Shamim Ahmed, J.)

Order Date :- 12.12.2023

A.Nigam