

Court No. - 29

Case :- APPLICATION U/S 482 No. - 2334 of 2024

Applicant :- Durgesh Kumar

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

Counsel for Applicant :- Atul Verma,Akhilendra Pratap Singh,Himanshu Tiwari,Vinod Kumar Yadav

Counsel for Opposite Party :- G.A.

Hon'ble Ajay Bhanot,J.

The supplementary affidavit filed by the learned counsel for the applicant is taken in the record.

Heard Shri Atul Verma, learned counsel for the applicant, Shri Nikhil Sonkar, learned counsel for the opposite party No.2 and Shri S.P. Tiwari, learned A.G.A. for the State.

Learned counsels for both parties contend that the parties have arrived at a compromise. The compromise has been reduced to writing. Both parties admit that there is no evidence to establish commission of rape by the applicant with the victim.

The parties are present before the Court and have been identified by their respective counsels.

It is stated by the parties that due to some differences both the parties lodged criminal proceedings against each other. The opposite party No.2 is a young lady. She has a future ahead. Her family is considering various suitable marriage proposals for her. Continuance of this criminal litigation will disrupt her life. She does not want to pursue this

litigation any further.

According to the contention of both parties, the applicant is the government servant who will face serious consequences in his career in case the litigation is allowed to proceed. There is no medical evidence in the record to establish commission of rape by the applicant. Moreover, the relationship between the parties was not legally defined. Section 4 of the Dowry Prohibition Act was also illegally invoked against the applicant without satisfying its ingredients.

It is contended that the trial is moving at a snail's pace and shows no sign of early conclusion. Not a single witness has been examined till date. The parties have amicably arrived at a compromise which has been reduced to writing.

Be that as it may, this Court does not wish to go any further query in view of the amicable resolution of the dispute and presence of the both the parties. This Court will ordinarily not permit compromise of heinous offences if ingredients of the offences are disclosed from the records. However, the hands of this Court are not tied when the Court is of the opinion that the prosecution is merely an abuse of the process of the court. In such circumstances, the compromise between the parties can be duly looked into. The narrative is fortified by the observations of the Supreme Court in **Kapil Gupta v.**

State (NCT of Delhi) and another, reported at **(2022) 15 SCC 44**.

The parties have been duly identified by their respective counsels in the Court.

In the wake of preceding discussion, the impugned charge-sheet submitted against the applicant in Crime No.343/2023 under Sections 376, 504, 506 IPC and Section 4 of the Dowry Prohibition Act as well as the cognizance/summoning order dated 25.10.2023 passed by the court below in ST No.89/2024 arising from Crime No.Crime No.343/2023 under Sections 376, 504, 506 IPC and Section 4 of the Dowry Prohibition Act are quashed.

The aforesaid criminal litigation shall not be adversely read against the applicant by any person or authority and shall be deemed to efface from the record as it may happen.

The Application U/S 482 is allowed.

Order Date :- 21.3.2024

Ashish Tripathi