

Court No. - 13

Case :- APPLICATION U/S 482 No. - 5802 of 2024

Applicant :- Divyansh Sharma

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

Counsel for Applicant :- Aakash Singh, Shivang Tiwari

Counsel for Opposite Party :- G.A., Pradeep Pandey, Vartik Raj Srivastava

Hon'ble Saurabh Lavania, J.

The applicant and the opposite party no. 2 (victim) are present before this Court, who have been identified by Shri Aakash Singh, Advocate and Shri Vartik Raj Srivastava, Advocate, appearing for the said parties.

Heard learned counsel for the applicant, learned AGA for the State of U.P. and Shri Lal Bahadur Khan, learned counsel for the opposite party no. 2.

Instant application has been filed with following main prayer:

"to set aside the entire criminal proceedings in the criminal proceedings in Session Trial no. 313 of 2023, arising out of Case Crime No. 270 of 2020 dated 21.11.2020 in Police Station- Talkatora against the applicant under section 376, 323 & 406 of the Indian Penal Code, 1860, pending in the court of Special Judge P.C. Act-II, Lucknow along with summoning order dated 17.11.2021 issued by the Learned Court of ACJM-VI, Lucknow, order for framing of charges dated 13.03.2023, charge-sheet dated 03.03.2021 and other subsequent proceedings."

It is stated that an FIR was lodged by the opposite party no. 2/victim registered as Case Crime No. 270 of 2020 dated 21.11.2020 in Police Station- Talkatora, District - Lucknow making allegations therein to attract the offense under Section 376 IPC.

It is also stated that according to the FIR, the victim, an adult, came into contact with the applicant in the year 2018 through Facebook and thereafter the relationship between the applicant and the opposite party no. 2/victim was developed and subsequently, the applicant established physical relation with the opposite party no. 2/victim on the pretext of false promise of marriage.

It is also stated that it appears from the FIR in issue that on account on non-solemnization of the marriage the FIR was lodged against the applicant on 21.11.2020 i.e. after having relationship of about two

years.

It is also stated that in view of the aforesaid background of the case, the case of the applicant is squarely covered by the judgment(s) of Hon'ble Apex Court rendered in the case of **Deepak Gulati vs. State of Haryana (2013) 7 SCC 675; Sonu @ Subhash Kumar vs. State of U.P. and Another (2021) 7 SCC; and Mandar Deepak Pawar vs. State of Maharashtra and Another 2022 SCC OnLine SC 2110.**

In continuation, it is also stated that after lodging the FIR, the Investigating Officer, based upon the statement(s) of the opposite party no. 2/victim recorded during investigation filed the charge-sheet against the applicant under Sections 376, 323, 406 IPC.

It is also stated that during the pendency of the trial, the victim came into contact with another person and solemnized marriage on 14.07.2024 and she is happily living with the said person.

It is also stated that the applicant also solemnized marriage on 26.11.2020 and the applicant is also enjoying matrimonial life with her wife.

It is further stated that on account of aforesaid, opposite party no. 2/victim changed her mind and therefore, the opposite party no. 2/victim/informant took the decision that she would not to pursue the present case against the applicant.

It is further stated that the applicant and the opposite party no.2/victim have solemnized marriage as per their choice and in the aforesaid background of the case if the criminal proceedings are allowed to continue then in that eventuality matrimonial life of opposite party no./informant/victim and the applicant and their spouse would be ruined.

It is also stated that in the similar circumstanced, the Hon'ble Apex Court as also other Hon'ble High Courts interfered in the matter and quash the proceedings. Reference has been made to following judgments:

(i) Gokada Suresh Vs. State of A.P., reported in 2023 SCC OnLine AP 57;

(ii) Bahori Lal Vs. State of U.P., passed in APPLICATION U/S 482 No. 780 of 2024 on 07.02.2024 by this Court;

(iii) Sachin Kumar Singh Vs. State of U.P., passed in APPLICATION U/S 482 No. 11366 of 2023 on 06.02.2024 by this Court;

(iv) Kapil Gupta Vs. State (NCT of Delhi) and Another,
reported in **(2022) 15 SCC 44.**

In response to the present application, the opposite party no.2/victim has also filed the affidavit which supports the case of the applicant. The relevant para of the same reads as under:

"4. That the applicant submits that she was in a consensual relationship with the Petitioner since November 2018.

5. That the relationship between the Applicant and the Petitioner turned sour and due to the differences between the parties the Case Crime No. 270 of 2020 was lodged in P.S. Talkatora, District-Lucknow, by the Applicant. The aforesaid case crime number is currently pending in the court of Special Judge P.C. Act-2, Lucknow and has Session Trial No. 313 of 2023.

6. That the applicant and the petitioner have settled the differences amongst themselves on the advice of the elders in the family and the applicant has decided not to pursue the aforementioned criminal case anymore. The parties have signed a compromised deed on 03.06.2024 and the applicant has filed an application supported by affidavit in the court of Special Judge. P.C. Act-2, Lucknow, in order to take the compromise deed on record on 03.06.2024."

On being asked on the aforesaid, the opposite party no. 2/victim, who is present before this Court, stated that she has already solemnized marriage with another person namely Sumit Arora and she does not want to continue with the present case.

Upon consideration of the aforesaid as also the observations in relation to making relationship on the pretext of false marriage made by the judgment(s) of Hon'ble Apex Court rendered in the case of **Deepak Gulati (supra); Sonu @ Subhash (supra); and Mandar Deepak Pawar (supra)** as also that no fruitful purpose would be served in keeping the proceedings pending before the trial court in view of the aforesaid including the nature of relationship and dispute between the applicant and the opposite party no. 2/victim and the chances of conviction in the proceedings pending which are extremely bleak in the aforesaid facts and also that if the criminal proceedings are allowed to continue then in that eventuality matrimonial life of opposite party no. 2/victim and the applicant with their spouses would be ruined as also the observations made by Apex Court in the case of **Ramgopal and others Vs. State of Madhya Pradesh, (2022) 14 SCC 531, 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, the criminal proceedings in issue against the applicant arising out of *Case Crime No. 270 of 2020*, quoted above, are hereby quashed.

Accordingly, the present application is allowed.

Office/Registry is directed to send the copy of this order to the court concerned through email/fax for necessary compliance.

Order Date :- 21.9.2024

Mohit Singh/-