

Court No. - 13

Case :- APPLICATION U/S 482 No. - 8183 of 2024

Applicant :- Dheeraj Kumar

Opposite Party :- State Of U.P. Thru. A.C.S Prin. Secy. Deptt. Home Civil Sectt. Lko And Another

Counsel for Applicant :- Alok Kirti Mishra, Dharmesh Kumar Dwivedi

Counsel for Opposite Party :- G.A., Rupa Singh

Hon'ble Saurabh Lavania, J.

1. Short counter affidavit filed on behalf of the victim is taken on record.
2. Heard.
3. Instant application has been filed by the applicant seeking following main relief:

"for the facts, reasons and circumstances as stated in the accompanying the Charge sheet No01/2024 dated 14.04.2024, in CNR. NO. UPUNO 40144922024_at arising out of Case Crime No. 0101/2024, under Sections 376, 323, 504, 506 I.P.C., Police Station GangaGhat, District Unnao as well as summoning order dated 16.05.2024 issued by Chief Judicial Magistrate, Unnao, this Hon'ble Court may kindly be pleased to quash, in the interest of justice."

4. It is stated that the victim/opposite party no. 2, being annoyed with the applicant for not solemnizing the marriage which could not be solemnized on account of unavoidable reasons, lodged the an FIR No. 0101 of 2024 on 02.03.2024 leveling main allegations to the effect that on the pretext of false marriage, the physical relations were established by the applicant with the victim and other allegations therein relate to using abusive language and accordingly, the said FIR was lodged under Sections 376, 323, 504 IPC.

5. It is also stated that after lodging of the FIR, the applicant was apprehended and sent to jail and thereafter the applicant was enlarged on bail by this Court order dated 07.05.2024 passed in **CRIMINAL MISC. BAIL APPLICATION No. 4866 of 2024 (Dheeraj Kumar Vs. State Of U.P. Thru. A.C.S Prin. Secy. Deptt. Home Civil Sectt. Lko)**.

6. It is also stated that after been released from judicial custody, the applicant and the opposite party no. 2 (victim) solemnized marriage on 10.05.2024 and this marriage has already been registered at Office

of Marriage Registration Officer at District - Unnao, as would appear from the marriage certificate dated 15.05.2024 on record as Annexure No. 7.

7. It is also stated that in the aforesaid background of the case as also taking note of the judgment(s) of Hon'ble Apex Court rendered in the case of **Sonu alias Subhas Kumar Vs. State of U.P., 2021 SCC OnLine SC 181; Deepak Gulati vs. State of Haryana (2013) 7 SCC 675** and **Shambhu Kharwar Vs. State of U.P. and Another, 2022 SCC OnLine SC 1032**, the proceedings in issue are liable to be interfered by this Court.

8. It is also stated that if the criminal proceedings are allowed to continue then in that eventuality matrimonial life of the applicant and the opposite party no. 2 (victim) would be ruined. Thus it is a case of interference by this Court.

9. The affidavit of the victim, which is on record, supports the story of the applicant as would appear from the following paragraph of the said affidavit.

2. That the deponent was having love affair from the petitioner since 10.10.2022 and the petitioner use to repetitively made physical relation with the deponent / Opposite Party no. 02 for past one year under allurement of marrying her but the petitioner could not marry with Opposite Party no. 02 earlier because of some constrains which were not in knowledge of the opposite Party no. 02 and due to this misunderstanding she has lodged FIR on the instigation of some person.

3. That during the pendency of the proceeding the confusion was short out between deponent and petitioner therefore the opposite party / deponent doesn't want to press the case against the petitioner/her husband.

4. That deponent had married from the petitioner on 10.05.202 and set marriage was registered on 15.05.2024 and since after marriage deponent and petitioner both are living happily. The photocopy of the marriage certificate is being annexed here with as Annexure No. 01 to this counter affidavit.

That after the verification of the that fact regarding the marriage of the deponent by this Hon'ble Court proper bail was granted to petitioner.

6. That there is no useful purpose to be served the continues the proceeding because the deponent is settled her dispute and marry with petitioner and living together and enjoying marriage life.

7. That the deponent doesn't want to press the above mention case proceeding against the petitioner/her husband if the entire proceeding may be quashed, deponent has no objection.

8. That deponent doesn't want to continue any criminal proceeding against her husband/ petitioner if proceed that will be sheer wastage of time of the Court but also the abuse of process of Law.

9. That the deponent has filed short counter affidavit in Bail application no. 4866/2024 and after verifying and satisfaction of the court final bail was granted. The photocopy of the order dated 09.07.2024 is being annexed here with as Annexure No. 02 to this counter affidavit.

10. Upon consideration of the aforesaid as also the observations in relation to establishing physical relationship with the consent in the judgment(s) of Hon'ble Apex Court rendered in the case of **Sonu alias Subhas Kumar (supra); Deepak Gulati (supra) and Shambhu Kharwar (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 between the applicant and the opposite party no. 2 (victim) as also that if this Court declines to interfere in the matter then in that eventuality the settled matrimonial life of the applicant and the opposite party no. 2 (victim) 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, this Court is of the view that entire criminal proceedings arising out of *Case Crime No. 0101/2024, quoted above*, are liable to be quashed. Accordingly are hereby quashed qua the applicant.**

11. Accordingly, the present application is allowed.

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

Order Date :- 18.9.2024

Mohit Singh/-