



2026:AHC:204634

HIGH COURT OF JUDICATURE AT ALLAHABAD

APPLICATION U/S 482 No. - 31414 of 2023

Shivam @ Sugam And Another

.....Applicant(s)

Versus

State of U.P. and Another

.....Opposite
Party(s)

Counsel for Applicant(s)	:	Pankaj Kumar Sharma
Counsel for Opposite Party(s)	:	G.A., Nirbhay Singh

Court No. - 76

HON'BLE SAMIT GOPAL, J.

1. List revised.

2. Heard Sri Pankaj Kumar Sharma, learned counsel for the applicants, Sri Virendra Pratap Singh, learned counsel for the State, Sri Sandeep Kumar Srivastava, Advocate, holding brief of Sri Nirbhay Singh, learned counsel for opposite party no. 2/ complainant and perused the material brought on record.

3. Vakalatnama of Sri Nirbhay Singh is not on record, despite his name is being printed in the cause list. IA status of Web Portal shows that same has been filed in the office on 22.11.2023. Office to trace out the same and place it on record and made a note in the order sheet about it.

4. Counter affidavit dated 20.1.2024 filed by the State is on record.

5. Learned counsel for the applicants submits that he does not propose to file any rejoinder affidavit to the said counter affidavit.

6. Learned counsel for the applicants submits that he has not been served with any counter affidavit on behalf of opposite party no. 2. Neither the record, nor IA status of website shows regarding filing of any counter affidavit by opposite party no. 2. The Court proceeds to hear the matter.

3. This application under Section 482 Cr.P.C. has been filed by the applicants Shivam @ Sugam and Ram Kishor with the prayer to allow this application and quash the entire proceeding as well as summoning order dated 30.6.2023 in Compliant Case No. 7512 of 2023 (Santosh Verma Vs. Shivam @ Sugam), under Sections 452, 323, 504, 506, 379 I.P.C., Police Station Sidhpura, District Kasganj pending in the Court of Chief Judicial Magistrate, Kasganj with a further prayer that proceeding of the aforesaid case be stayed during the pendency of the present application.

4. The matter was initially taken up on 21.9.2023 and the following order was passed by a coordinate Bench of this Court;

"1. Heard learned counsel for the applicant and learned A.G.A. for the State.

2. The present 482 Cr.P.C. application has been filed to quash the summoning order dated 30.06.2023 as well as the entire proceedings of Case No. 7512 of 2023 (Santosh Verma Vs. Shivam@Sugam and another), under Sections- 452, 323, 504, 506, 379 I.P.C., Police Station- Sidhpura, District- Kasganj, pending in the court of Chief Judicial Magistrate, Kasganj.

3. Learned counsel for the applicant submitted that applicant No. 1 has filed complaint case against opposite party No. 2 and some other persons on 31.01.2022, in which summoning order has been issued on 16.07.2022. He next submitted that opposite party No. 2 has challenged the same by filing Application U/s 482 No. 35520 of 2022, which was disposed of vide order dated 13.12.2022 with direction for mediation. He next submitted that opposite party No. 2 has not participated in the mediation proceeding and has filed present criminal present proceeding against the applicants to pressurize them to withdraw earlier proceeding initiated against opposite party No. 2. He next submitted that summoning order dated 30.06.2023 as well as present criminal proceeding are bad and liable to be set aside.

4. Matter requires consideration.

5. Notice on behalf of opposite party no. 1 has been accepted by learned A.G.A.

6. Issue notice to opposite party no.2 returnable within eight weeks.

7. Learned AGA as well as learned counsel for opposite party no. 2 may file their counter affidavits within six weeks. Rejoinder affidavit may be filed within two weeks thereafter.

8. List this case on 22.11.2023.

9. Till the next date of listing, further proceedings of the

aforesaid case shall remain stayed against the applicant."

5. The facts in the present case are that a complaint dated 23.5.2023 was filed by Santosh Verma/ opposite party no. 2 against the applicants for the offences under Sections 323, 392, 427, 452, 504, 506, 406 I.P.C. alleging therein that on 16.5.2023 at about 10.00 A.M., the accused applicants forcibly entered the house and started hurling abuses. On making objection, they started assaulting him and also broke the house hold articles. During this incident, Shivam @ Sugam looted a gold chain from the neck of the complainant and Ram Kishor took away Rs. 5300/- kept in almirah. On making hue and cry, Sagar Verma, Anmol and other villagers came on the spot and saw the incident and saved him. Seeing the people coming, the accused ran away giving threats to complainant. The complainant went to police station concerned to lodge the report but the same was not lodged and then he sent an application by registered post to the Superintendent of Police concerned, on which, when no report was lodged, he, thus, filed a complaint against the accused persons to be summoned for the offence punishable under Sections 323, 392, 427, 452, 504, 506, 406 I.P.C. On the said complaint, the statement of Santosh Verma was recorded under Section 200 Cr.P.C. and the statements of his witnesses namely, Anmol as P.W.-1 and Sagar Varma as P.W.-2 were recorded under Section 202 Cr.P.C. The court of the Chief Judicial Magistrate, Kasganj vide order dated 30.6.2023 summoned the accused applicants for the offence under Sections 452, 323, 504, 506, 379 I.P.C. Hence, the present application u/s 482 Cr.P.C. has been filed with prayers as aforesaid.

6. Learned counsel for the applicants submitted that the complainant/ opposite party no. 2 was mediator of the marriage of Shivam @ Sugam with Shivani d/o Pramod Kumar. It has further been submitted that the said marriage was solemnized on 16.2.2021, after which Smt. Shivani went to her maternal house from where she eloped with one Dhiraj Kumar on 03.03.2021. It is further submitted that when applicant no. 1 came to know about the said incident, he filed a complaint on 31.1.2022 against Santosh Verma/ opposite party no. 2, Dhiraj Kumar, Shivani, Pramod Kumar and Anoop for the offences under Sections 452, 323, 504, 506, 420, 406 I.P.C. In said complaint, the statement under Section 200 Cr.P.C. and statements of his witnesses namely, Ranu as P.W.-1 and Amir as P.W.-2 were recorded, after which vide order dated 16.7.2022 passed by Chief Judicial Magistrate, Kasganj, the accused were summoned for the offences under Sections 452, 323, 504, 506 I.P.C. to face trial. It is further submitted that the said accused persons then challenged the proceedings of the said case before this Court by way of an Application u/s 482 No. 35520 of 2022, Santosh and 4 others Vs. State of U.P. in which vide order dated 13.12.2022, the case was referred to mediation center. The said order has been annexed as annexure-8 to the affidavit, which reads as under;

"Heard learned counsel for the applicants and Sri Vikas

Sahai, learned A.G.A. for the State.

This application under section 482 Cr.P.C. has been filed with the prayer to quash the entire proceedings of Complaint Case No. 176 of 2022, Shivam @ Sugam Verma v. Santosh and others, under Sections 452, 323, 504, 506 I.P.C., Police Station Sidhpura, District Kasganj pending in the Court of the Chef Judicial Magistrate, Kasganj as well as the summoning order dated 16.07.2022 passed in the said case.

Learned counsel for the applicants submits that the applicant no. 3 is married to the opposite party no. 2. The dispute between the parties is a matrimonial dispute, and in case the matter is referred for mediation, the parties may get an opportunity to settle their dispute amicably.

The Apex Court in the case of Rajesh Sharma and Others Vs. State of U.P. and another, reported in 2017 AIR (SC) 3869, has issued certain directions regarding matrimonial disputes. Paragraph 19 of the judgement, which contains the directions so issued, is reproduced hereunder:-

"19. Thus, after careful consideration of the whole issue, we consider it fit to give following directions :-

(i) (a) In every district one or more Family Welfare Committees be constituted by the District Legal Services Authorities preferably comprising of three members. The constitution and working of such committees may be reviewed from time to time and at least once in a year by the District and Sessions Judge of the district who is also the Chairman of the District Legal Services Authority.

(b) The Committees may be constituted out of para legal volunteers/ social workers/ retired persons/ wives of working officers/ other citizens who may be found suitable and willing.

(c) The Committee members will not be called as witnesses.

(d) Every complaint under Section 498A received by the police or the Magistrate be referred to and looked into by such committee. Such committee may have interaction with

the parties personally or by means of telephone or any other mode of communication including electronic communication.

(e) Report of such committee be given to the Authority by whom the complaint is referred to it latest within one month from the date of receipt of complaint.

(f) The committee may give its brief report about the factual aspects and its opinion in the matter.

(g) Till report of the committee is received, no arrest should normally be effected.

(h) The report may be then considered by the Investigating Officer or the Magistrate on its own merit.

(i) Members of the committee may be given such basic minimum training as may be considered necessary by the Legal Services Authority from time to time.

(j) The Members of the committee may be given such honorarium as may be considered viable.

(k) It will be open to the District and Sessions Judge to utilize the cost fund wherever considered necessary and proper.

(ii) Complaints under Section 498A and other connected offences may be investigated only by a designated Investigating Officer of the area. Such designations may be made within one month from today. Such designated officer may be required to undergo training for such duration (not less than one week) as may be considered appropriate. The training may be completed within four months from today;

(iii) In cases where a settlement is reached, it will be open to the District and Sessions Judge or any other senior Judicial Officer nominated by him in the district to dispose of the proceedings including closing of the criminal case if dispute primarily relates to matrimonial discord;

(iv) If a bail application is filed with at least one clear day's notice to the Public Prosecutor/ complainant, the same may be decided as far as possible on the same day. Recovery of disputed dowry items may not by itself be a ground for denial

of bail if maintenance or other rights of wife/minor children can otherwise be protected. Needless to say that in dealing with bail matters, individual roles, prima facie truth of the allegations, requirement of further arrest/ custody and interest of justice must be carefully weighed;

(v) In respect of persons ordinarily residing out of India impounding of passports or issuance of Red Corner Notice should not be a routine;

(vi) It will be open to the District Judge or a designated senior judicial officer nominated by the District Judge to club all connected cases between the parties arising out of matrimonial disputes so that a holistic view is taken by the Court to whom all such cases are entrusted; and

(vii) Personal appearance of all family members and particularly outstation members may not be required and the trial court ought to grant exemption from personal appearance or permit appearance by video conferencing without adversely affecting progress of the trial.

(viii) These directions will not apply to the offences involving tangible physical injuries or death."

In view of the aforesaid, no useful purpose would be served by keeping the proceedings of the aforesaid case pending before this Court. The Court below is directed to refer the parties to the committee constituted for mediation at District concerned within a period of 15 days from the date of receipt of a certified copy of this order.

The mediation centre shall submit its report within one month from the date of receipt of the case before the learned Magistrate.

For a period of three months from today or till the submission of the report by the mediation centre, no coercive action shall be taken against the applicants. If bail application is filed by the applicants, the same shall be decided according to the direction contained in Rajesh Sharma (supra).

It is however provided that in case the mediation fails, the applicants shall be at liberty to file a fresh application under Section 482 Cr.P.C.

With the aforesaid observations, the present application stands disposed of."

7. It is submitted that no steps were taken by the applicants therein and thus, mediation in the matter did not proceed further. Subsequently, the present complaint dated 23.5.2023 has been filed against the applicants as a result of counterblast to the said matter in order to harass the applicants. It is further submitted that reading of the complaint and the statements of the complainant and the witnesses goes to show that no motive whatsoever has been stated in the complaint. The present complaint has been filed as a counterblast to the complaint dated 31.3.2022 by the applicant no. 1 against opposite party no. 2 and 4 others in which they were summoned vide order dated 16.7.2022 to face trial. They had approached this court and order dated 13.12.2022 was passed in the petition but they did not comply with the said order. It is submitted by pointing out of paragraph no. 10 of the affidavit in support of the present application that this is a no injury case. It is further submitted that the said paragraph has been replied in paragraph no. 8 of the counter affidavit filed by the State, which is not denied and reply therein is that the same is a matter of record hence, needs no reply. Thus, the fact which transpires is that the allegation of assault on the complainant by the accused applicants are false and baseless, since this is a no injury case. It has further been submitted that the other allegations in the present matter have been exaggerated in order to give colour to the case. Learned counsel has relied upon para-102 of the judgement of the Apex Court in the case of **State of Haryana and Others Vs. Bhajan Lal and Others: 1992 Suppl (1) SCC 335** and has submitted that one of the categories being category no.7 as laid down by the Apex Court in the said judgement for quashing of the proceedings under Section 482 Cr.P.C. are of malafides intentions and counterblast. Para-102 of the said judgement reads as under:-

"102. In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers under Section 482 of the Code which we have extracted and reproduced above, we give the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.

(1) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.

(2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.

(3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.

(4) Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.

(5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

(6) Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.

(7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge."

8. It is submitted that looking to the facts of the matter, the present application under Section 482 Cr.P.C. is liable to be allowed.

9. Per contra, learned counsel for the State and learned counsel for opposite party no. 2 opposed the prayer for quashing and submitted that reading of the complaint, statements of complainant and the witnesses and also summoning order go to show that offence is made out against the applicants, however, with regards to the complaint lodged previously by the applicant no. 1, the statement recorded therein and the order of summoning and then the order dated 13.12.2022 passed in Application u/s 482 Cr.P.C. is not disputed by the said learned counsel.

10. After hearing the learned counsel for the parties and perusing the

records, it is evident that the applicant no. 1 was married on 16.2.2021, the complainant / opposite party no. 2 was mediator of the said marriage. The wife of applicant no. 1 eloped with someone when she went to her maternal house after marriage. Applicant no. 1 filed a complaint on 31.1.2022 against his wife, opposite party no. 2 and other family members. The said accused were summoned by the concerned court. After the said summoning, the accused therein challenged the proceedings and summoning order before this Court and the matter was referred to mediation center. It is the case that the applicants therein did not proceed further to get the matter settled. Subsequently, the present complaint has been filed by one of the accused persons therein who was summoned to face trial, who was also the mediator of the said marriage. The present case is a no injury case and same appears to be based on concocted facts and with malafides and the same deserves to be quashed.

11. In view of the above discussions and the law laid down by the Apex Court in the case of **Bhajan Lal (Supra)**, the present 482 Cr.P.C. application stands allowed.

12. The impugned summoning order and the proceedings of the said case are hereby quashed against the applicants.

13. Pending application(s), if any, shall stand disposed of.

(Samit Gopal,J.)

September 29, 2026

Gss