Najam vs State Of U.P. And Anr on 1 April, 2025

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HIGH COURT OF JUDICATURE AT ALLAHABAD
?Neutral Citation No. - 2025:AHC:45351
Court No. - 73
Case :- APPLICATION U/S 482 No. - 25792 of 2019
 (Leading Case)
Applicant :- Najam
Opposite Party :- State Of U.P. And Anr
Counsel for Applicant :- Pawan Kumar Singh, Rakesh Kumar Mishra
Counsel for Opposite Party :- G.A.
Connected With
Case :- APPLICATION U/S 482 No. - 25901 of 2019
   (Connected Case)
Applicant :- Smt. Mariyam And 3 Ors
Opposite Party :- State Of U.P. And Anr
Counsel for Applicant :- Pawan Kumar Singh, Rakesh Kumar Mishra
Counsel for Opposite Party :- G.A.
Hon'ble Vikas Budhwar, J.
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- 1. Supplementary affidavit filed today is taken on record.
- 2. Heard Sri Shiv Prakash Chaudhary, learned counsel for the applicants as well as Sri S.K., learned AGA for the State.
- 3. Since common questions are involved in both the applications, they are being decided by a common and composite order. The leading application had been preferred by the husband of opposite party no.2 for quashing the charge sheet no.429A of 2018 dated 19.01.2019 as well as cognizance order dated 02.04.2019 and the entire proceeding of Crime No. 453 of 2018 (State vs. Mariyam and Ors) U/s 498A, 323, 506 IPC and Section 3/4 D.P. Act, P.S. Ganj, District Rampur pending in the court of 3rd Additional Chief Judicial Magistrate.
- 4. This Court while entertaining the present application on 04.07.2019 proceeded to pass the following order:

"Heard learned counsel for the applicant and learned Additional Government Advocate for the State/opposite party no.1 and perused the record with the assistance of learned counsel for the parties.

This application under Section 482 Cr.P.C. has been filed by the applicant with a prayer to quash the charge-sheet no. 429A of 2018 dated 19.1.2019 arising out of case crime no. 453 of 2018 (State Vs. Mariyam and others) as well as cognizance order dated 2.4.2019, under Sections 498A, 323, 506 IPC and under Section 3/4 D.P. Act, Police Station Ganj, District - Rampur pending in the court of IIIrd Additional Chief Judicial Magistrate, Rampur.

It is submitted by the learned counsel for the applicant that this is a matrimonial dispute. Applicant is willing to settle the matter through mediation, therefore, an opportunity be granted to the parties concerned for reconciliation/settlement of their disputes by way of mediation.

This Court owes a duty to the society to strain to utmost to repair the frayed relations between the husband and wife, so that wounded situation may be healed into healthy rapprochement. The matter in hand also appears to be one of those cases in which reconciliation should be tried between the disputing parties.

The Apex Court in case of B.S. Joshi Vs. State of Haryana 2003 (4) SCC 675 has also observed that courts to encourage settlement of marital disputes between the contesting spouses, so that they do not lose their youthful years in chasing interminable litigations.

In view of above, I agree with the submission advanced on behalf of the applicant and feel that the interest of justice would be served, if such request of the applicant is acceded to and the criminal proceedings and other litigations between the parties

concerned is brought to an end.

The matter is referred to Mediation & Conciliation Centre of this Court. The applicant is directed to deposit a sum of Rs. 10,000/- by way of demand draft in favour of Registrar General, Allahabad High Court Mediation & Conciliation Centre within a period of two weeks from today to the In-charge Mediation and Conciliation Centre, High Court, Allahabad. After deposit of the aforesaid money by the applicant, office shall send a notice to the opposite party no.2 fixing a date to appear before the Mediation and Conciliation Centre of this Court.

Out of aforesaid amount, a sum of Rs. 8,000/- shall be payable to the opposite party no.2 on her appearance before the Mediation and Conciliation Centre. The remaining amount of Rs. 2,000/- shall be payable to the Mediation Centre. The Mediation Centre will submit its report in the matter within two months.

All the opposite parties may file counter affidavit, if any, within four weeks. Rejoinder affidavit, if any, may be filed within two weeks thereafter.

Connect and list alongwith application under Section 482 Cr.P.C. No. 25901 of 2019 after two months before the appropriate Bench alongwith the report of Mediation and Conciliation Centre, High Court, Allahabad.

Till the next date of listing, no coercive action shall be taken against the applicant pursuant to charge-sheet no. 429A of 2018 dated 19.1.2019 arising out of case crime no. 453 of 2018 (State Vs. Mariyam and others) as well as cognizance order dated 2.4.2019, under Sections 498A, 323, 506 IPC and under Section 3/4 D.P. Act, Police Station Ganj, District - Rampur pending in the court of IIIrd Additional Chief Judicial Magistrate, Rampur subject to following conditions:-

- (i) The applicant after deposit of aforesaid amount within the said period shall submit a proof of deposit of said amount before the concerned court below.
- (ii) In case, the said amount, as directed above, is not deposited by the applicant within the aforesaid period, the stay order passed by this Court shall automatically come to an end and it will be open for the concerned court below to proceed against the applicant. "
- 5. As regards the connected application, the same has been preferred by married nanad, mamia sas, mamia sasur for quashing the charge-sheet no.429 of 2018 dated 27.11.2018 as well as cognizance order dated 26.03.2019 and the entire proceeding of Criminal Case No. 683 of 2019 (State vs. Mariyam and Ors) U/s 498A, 323, 506 IPC and Section 3/4 D.P. Act, P.S. Ganj, District Rampur.
- 6. This Court while entertaining the application on 04.07.2019, proceeded to pass the following order:

"Heard learned counsel for the applicants and learned Additional Government Advocate for the State/opposite party no.1 and perused the record with the assistance of learned counsel for the parties.

This application under Section 482 Cr.P.C. has been filed by the applicants with a prayer to quash the charge-sheet no. 429 of 2018 dated 27.11.2018 arising out of case crime no. 453 of 2018 and proceedings of criminal case no. 683 of 2019 (State Vs. Mariyam and others), under Sections 498A, 323, 506 IPC and 3/4 D.P. Act, Police Station Ganj, District - Rampur pending in the court of IIIrd Additional Chief Judicial Magistrate, Rampur.

It is submitted by the learned counsel for the applicants that this is a matrimonial dispute. Applicants are willing to settle the matter through mediation, therefore, an opportunity be granted to the parties concerned for reconciliation/settlement of their disputes by way of mediation.

This Court owes a duty to the society to strain to utmost to repair the frayed relations between the husband and wife, so that wounded situation may be healed into healthy rapprochement. The matter in hand also appears to be one of those cases in which reconciliation should be tried between the disputing parties.

The Apex Court in case of B.S. Joshi Vs. State of Haryana 2003 (4) SCC 675 has also observed that courts to encourage settlement of marital disputes between the contesting spouses, so that they do not lose their youthful years in chasing interminable litigations.

In view of above, I agree with the submission advanced on behalf of the applicants and feel that the interest of justice would be served, if such request of the applicants is acceded to and the criminal proceedings and other litigations between the parties concerned is brought to an end.

The matter is referred to Mediation & Conciliation Centre of this Court. The applicants are directed to deposit a sum of Rs. 10,000/- by way of demand draft in favour of Registrar General, Allahabad High Court Mediation & Conciliation Centre within a period of two weeks from today to the In-charge Mediation and Conciliation Centre, High Court, Allahabad. After deposit of the aforesaid money by the applicant, office shall send a notice to the opposite party no.2 fixing a date to appear before the Mediation and Conciliation Centre of this Court.

Out of aforesaid amount, a sum of Rs. 8,000/- shall be payable to the opposite party no.2 on her appearance before the Mediation and Conciliation Centre. The remaining amount of Rs. 2,000/- shall be payable to the Mediation Centre. The Mediation Centre will submit its report in the matter within two months.

All the opposite parties may file counter affidavit, if any, within four weeks. Rejoinder affidavit, if any, may be filed within two weeks thereafter.

Connect and list alongwith application under Section 482 Cr.P.C. No. 25972 of 2019 after expiry of two months before the appropriate Bench alongwith the report of Mediation and Conciliation Centre, High Court, Allahabad.

Till the next date of listing, no coercive action shall be taken against the applicants pursuant tocharge-sheet no. 429 of 2018 dated 27.11.2018 arising out of case crime no. 453 of 2018 in criminal case no. 683 of 2019 (State Vs. Mariyam and others), under Sections 498A, 323, 506 IPC and 3/4 D.P. Act, Police Station Ganj, District - Rampur pending in the court of IIIrd Additional Chief Judicial Magistrate, Rampur subject to following conditions:-

- (i) The applicants after deposit of aforesaid amount within the said period shall submit a proof of deposit of said amount before the concerned court below.
- (ii) In case, the said amount, as directed above, is not deposited by the applicants within the aforesaid period, the stay order passed by this Court shall automatically come to an end and it will be open for the concerned court below to proceed against the applicants. "
- 7. It appears from the record that parties were not willing for mediation. However, on the strength of the supplementary affidavit dated 28.02.2025 filed in the leading application, it has been asserted that the parties have entered into a compromise and the compromise application has been submitted on 31.01.2025 before the court of Judicial Magistrate, Rampur reference whereof has been made in paragraph-7.
- 8. Learned counsel for the applicants submits that till verification is done, protection be accorded to the applicants.
- 9. Learned AGA as well as Sri Sumit Kumar Gupta, learned counsel appearing for opposite party no.2, has no objection to the same and according to them, till verification process is concluded, the protection be accorded to the applicants.
- 10. Considering the said submission made across the bar, the application stands disposed of directing the applicants (parties) in both the applications to appear before the court below by 21.04.2025 along with the self attested copy of the present application, certified copy of the order. On the receipt of the same, the court below shall make endeavour to put to notice the other party and thereafter verify the compromise application as alleged to have been filed by the applicants by 23.05.2025.
- 11. Till the verification is done in the compromise application so submitted by the parties, no coercive action shall be taken against the applicants in thethe entire proceeding of Crime No. 453 of

2018 (State vs. Mariyam and Ors) U/s 498A, 323, 506 IPC and Section 3/4 D.P. Act, P.S. Ganj, District Rampur pending in the court of 3rd Additional Chief Judicial Magistrate. The protection accorded to the applicants is only available subject to compliance of the terms and conditions and timeline as provided herein and in case of default, the order shall stand vacated without reference to the Bench. The parties are free to take legal recourse post outcome of the compromise.

Order Date: - 1.4.2025 C. MANI (Vikas Budhwar, J.)