

Manvendra vs State Of U.P. And Another on 31 January, 2025

Author: Rajeev Misra

Bench: Rajeev Misra

HIGH COURT OF JUDICATURE AT ALLAHABAD

?Neutral Citation No. - 2025:AHC:14844

Court No. - 71

Case :- APPLICATION U/S 482 No. - 44567 of 2024

Applicant :- Manvendra

Opposite Party :- State of U.P. and Another

Counsel for Applicant :- Bindeshwari Prasad Mishra, Satyendra Narayan Singh

Counsel for Opposite Party :- G.A.

Hon'ble Rajeev Misra, J.

Heard Mr. B.P. Mishra, the learned counsel for applicant and the learned A.G.A. for State.

Perused the record.

Applicant- Manvendra who is a charge sheeted accused has approached this Court by means of present application under section 482 Cr.P.C. with the following prayer:

"It is therefore, most respectfully prayed that this Hon'ble Court may graciously be pleased to allow this application and quash the entire proceeding of Session Trial No. 82 of 2022 (State Vs. Manvendra) arising out of the Case Crime No. 298 of 2021, under section 376, "5B I.P.C., Police Station Naujhheel, District Mathura, pending in

the court learned Additional Sessions Judge/Fast Track Court Mathura in the light compromise dated 12.08.2024 arrived between the parties in the aforesaid case.

It is further prayed that this Hon'ble Court may kindly be pleased to stay the further proceeding of Session Trial No. 82 of 2022 (State Vs. Manvendra) arising out of the Case Crime No. 298 of 2021, under section 376, *504).P.C., Police Station Nauhjheel, District Mathura, pending in the court learned Additional Sessions Judge/Fast Track Court Mathura in the light compromise dated 12.08.2024 arrived between the parties and further be pleased to pass any suitable order which this Hon'ble Court deem fit and proper in the facts and circumstances of the case."

Learned counsel for applicant submits that during pendency of above mentioned Sessions Trial, parties amicably settled their dispute out side the Court. On the basis of settlement arrived at between the parties, a compromise application dated 12.8.2024 was filed before Court below which was also supported by the affidavit of prosecutrix. On the aforesaid premise, the learned counsel for applicant submits that since the dispute between the parties is a purely private dispute, in which parties have entered into compromise, therefore, no useful purpose shall be served in prolonging the criminal procution of applicant present proceedings. He, therefore, submits that present application is therefore liable to be allowed.

Per contra, the learned A.G.A. has vehemently opposed the present application. Referring to the judgement of Supreme Court in Rampal Vs. State of Haryana, AIR online 2019 SC 1716 he submits that in view of aforesaid judgement, no compromise can be entered into by the parties in matters relating to rape and sexual assault. As such, the proceedings of above mentioned Sessions Trial cannot be terminated by this Court on the basis of compromise entered into by the parties. Learned A.G.A. further submits that since no such development has taken place on the basis of which criminality alleged to have committed by applicant can be said to be washed of, therefore, no interference is warranted by this Court in present application. At this juncture reference be made to the judgement of Supreme Court in K. Dhandapani Vs. State by the Inspector of Police, 2022 SCC OnLine SC 1056. Since the judgement is a short one therefore the same is reproduced in its entirety:

""1. Leave granted.

2. The appellant who is the maternal uncle of the prosecutrix belongs to Valayar community, which is a most backward community in the State of Tamilnadu. He works as a woodcutter on daily wages in a private factory. FIR was registered against him for committing rape under Sections 5(j)(ii) read with Section 6, 5(I) read with Section 6 and 5(n) read with Section 6 of Protection of Child from Sexual Offences (POCSO) Act, 2012. He was convicted after trial for committing the said offences and sentenced to undergo rigorous imprisonment for a period of 10 years by the Sessions Judge, Fast Track Mahila Court, Tiruppur on 31.10.2018. The High Court, by an order dated 13.02.2019, upheld the conviction and sentence. Aggrieved thereby, the appellant has filed this appeal.

3. Mr. M.P. Parthiban, learned counsel appearing for the appellant, submitted that allegation against him was that he had physical relations with the prosecutrix on the promise of marrying her. He stated that, in fact, he married the prosecutrix and they have two children. 4. The appellant submitted that this Court should exercise its power under Article 142 of the Constitution and ought to do complete justice and it could not be in the interest of justice to disturb the family life of the appellant and the prosecutrix.

5. After hearing the matter for some time on 08th March, 2022, we directed the District Judge to record the statement of the prosecutrix about her present status. The statement of the prosecutrix has been placed on record in which she has categorically stated that she has two children and they are being taken care of by the appellant and she is leading a happy married life.

6. Dr. Joseph Aristotle S., learned counsel appearing for the State, opposed the grant of any relief to the appellant on the ground that the prosecutrix was aged 14 years on the date of the offence and gave birth to the first child when she was 15 years and second child was born when she was 17 years. He argued that the marriage between the appellant and the prosecutrix is not legal. He expressed his apprehension that the said marriage might be only for the purpose of escaping punishment and there is no guarantee that the appellant will take care of the prosecutrix and the children after this Court grants relief to him.

7. In the peculiar facts and circumstances of this case, we are of the considered view that the conviction and sentence of the appellant who is maternal uncle of the prosecutrix deserves to be set aside in view of the subsequent events that have been brought to the notice of this Court. This Court cannot shut its eyes to the ground reality and disturb the happy family life of the appellant and the prosecutrix. We have been informed about the custom in Tamilnadu of the marriage of a girl with maternal uncle.

8. For the aforesaid mentioned reasons, the conviction and sentence of the appellant is set aside in the peculiar facts of the case and shall not be treated as a precedent. The appeal is accordingly, disposed of. Pending application(s), if any, shall stand disposed of.

9. In case, the appellant does not take proper care of the prosecutrix, she or the State on behalf of the prosecutrix can move this Court for modification of this Order."

When confronted with above, the learned counsel for applicant could not overcome the same.

Having heard the learned counsel for applicant, the learned A.G.A. for State and upon perusal of record, this Court finds that the preliminary objection raised by the learned A.G.A. in opposition to this application is clearly borne out from the record and furthermore the same could not be

dislodged by the learned counsel for applicant, with reference to the record at this stage. As such, no good ground exists to entertain the present application.

In view of above, this application fails and is liable to be dismissed.

It is accordingly dismissed.

Order Date :- 31.1.2025 Arshad