

Ajay Kumar @ Ajay vs State Of U.P. Thru. Prin. Secy. Home Lko. ... on 3 March, 2025

Author: Saurabh Lavania

Bench: Saurabh Lavania

HIGH COURT OF JUDICATURE AT ALLAHABAD, LUCKNOW BENCH

?Neutral Citation No. - 2025:AHC-LK0:12660

Court No. - 12

Case :- APPLICATION U/S 482 No. - 1291 of 2025

Applicant :- Ajay Kumar @ Ajay

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

Counsel for Applicant :- Ashok Kumar Maurya, Priyanshi Maurya, Rekha Singh

Counsel for Opposite Party :- G.A., Raj Kumar

Hon'ble Saurabh Lavania, J.

1. The parties are present before this Court who have been identified by their respective counsel.
2. Heard.
3. Considering the statement(s) given by the parties and learned counsel for the parties as also the order dated 13.02.2025 i.e. first order passed in the instant application, this Court proceeded to decide the present application.
4. Instant application has been filed seeking following main relief:

"to quash the entire proceedings of criminal case no.7356/2023 State of U.P. Vs Ajay Kumar pending before Chief Judicial Magistrate Unnao as well as impugned charge sheet dated 14.10.2014 which is arising out of case crime no.1115/2014 in offence under section 376, 506 I.P.C., Police Station Hasanganj, District Unnao."

5. It is apt to indicate that vide order dated 13.02.2023, this Court entertain the present application and protected the interest of the applicant after taking note of the various facts including the facts pertaining to the statement of the victim/opposite party No. 2 recorded before the Additional Sessions Judge/Fast Track Court, Court No. 1, Unnao, in Case No. 1437 of 2014 (Kusma vs. Ajay) and the order passed in the said case.

6. Today, when the case was called out, Shri Vinay Kumar Sahi, learned AGA pointed out that the applicant, for the purpose of quashing of the proceedings in issue, earlier approached this Court by filing APPLICATION U/S 482 No. - 6480 of 2018 (Ajai @ Ajai Kumar Vs. State of U.P. and Another) and the said application was dismissed by this Court vide final order dated 08.01.2024 and accordingly, the present application for the same relief being second one is neither entertainable nor maintainable.

7. The order dated 08.01.2024, referred above, is extracted herein-under:

"1. Heard Sri Syed Ahmad Abbas Zaidi, the learned counsel for the applicant, Sri Akhilesh Kumar Vyas, the learned A.G.A. appearing on behalf of the State and Sri Neeraj Sahu, holding brief of Sri Mohd. Usman Ghani Khan, the learned counsel for the complainant.

2. The petition under Section 482 Cr.P.C. has been filed seeking quashing of the charge sheet dated 14.10.2014 arising out of Case Crime No.1115 of 2014, under Sections 376, 506 I.P.C. Police Station Hasanganj, District Unnao and cognizance/summoning order dated 03.04.2018 passed by the learned Chief Judicial Magistrate, Unnao in Case No.113 of 2018 on the ground that in the affidavit filed in evidence in Case No.1437 of 2014 in the Court of Principal Judge, Family Court, Unnao filed under Section 125 Cr.P.C.the opposite party no.2 stated that the applicant has married her and she lived with him as his wife.

3. In the F.I.R. lodged on 03.04.2014 the opposite party no.2 alleged that the informant's father is very poor and taking undue advantage of his poverty the informant made illicit relation with the opposite party no.2 when she was aged about merely ten years. The applicant often committed the misdeed against the informant due to which she became pregnant while she was merely twelve years of age. After death of the applicant's father he got compassionate appointment and thereafter he married some other girl while the informant's son had attained the age of nine years.

4. The statement of the informant recorded under Section 161 Cr.P.C. and her medico legal examination report have not been annexed with the affidavit. A copy of the

statement of the victim recorded under Section 164 Cr.P.C. has been annexed with the application wherein she categorically stated that she was in a relationship with the applicant since she was aged about thirteen years and she had delivered a child in the year 2013. The applicant had promised to marry her but he did not fulfill his promise. In May, 2014 the applicant married another girl whereas his son is living with the informant. The opposite party no.2 has categorically stated that the applicant has deceived her and kept her with his wife under a promise of marrying her but he resiled from his promise.

5. After investigation the police submitted a charge sheet on 14.10.2014 alleging commission of offence under Sections 376, 506 I.P.C. and the trial court as taking cognizance of the offence on 03.04.2018 has summoned the applicant to face the trial.

6. The quashing of the charge sheet and the proceedings have been sought on the ground that in her evidence given in Case No.1437 of 2014, under Section 125 Cr.P.C. the opposite party no.2 has stated that the applicant had married her. However, this application has been rejected by means of an order dated 10.02.2018, passed by learned Principal Judge/Fast Track Court No.1, Unnao as not pressed.

7. The opposite party no.2 has filed a counter affidavit stating that she does not want to proceed against the applicant in any manner.

8. The learned A.G.A. has opposed the application and he has submitted that the allegations levelled in the F.I.R. are supported by the statement of the informant recorded by the Magistrate. Accordingly, the charge of commission of offence under Section 376 I.P.C. against a minor girl resulting in her getting pregnant and delivering a child, stands established. The offence alleged is of very heinous nature and criminal proceedings involving commission of such an offence cannot be quashed on the basis of consent of the victim only, as the offence does not fall within the category of an offence of a private nature.

9. Accordingly, the application lacks merit and the same is dismissed."

8. Taking note of the aforesaid, this Court finds that the present application is not liable to entertained. Accordingly, it is rejected.

Order Date :- 3.3.2025 Mohit Singh/-