

Dinesh Kumar Yadav @ Dinesh Kumar vs State Of U.P. Thru. Prin. Secy. Home ... on 31 January, 2025

Author: Saurabh Lavania

Bench: Saurabh Lavania

HIGH COURT OF JUDICATURE AT ALLAHABAD, LUCKNOW BENCH

?Neutral Citation No. - 2025:AHC-LK0:6995

Court No. - 12

Case :- APPLICATION U/S 482 No. - 7904 of 2024

Applicant :- Dinesh Kumar Yadav @ Dinesh Kumar

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

Counsel for Applicant :- Ved Prakash,Sudhakar Mishra

Counsel for Opposite Party :- G.A.,Vivek Tiwari

Hon'ble Saurabh Lavania,J.

1. The applicant and opposite party No.2 are personally present before this Court today and have been duly identified by their respective counsel.
2. Heard learned counsel for the applicant, learned AGA for the State and learned counsel for the opposite party no.2/ complainant/ victim.
3. Instant application has been filed by the applicant seeking following main relief:

"To quash the charge sheet dated 20-11-2023 and summoning order dated 19-12-2023 along with entire proceeding of Crl. Case No. 143444/2023 (State VS Dinesh Kumar and others) based on impugned charge sheet dated 27-10-2023 arising out of Case Crime No. 259/2023, U/S-376, 323, 504, 506 I.P.C., Police Station- Bijnaur, District- Lucknow, on the basis of compromise dated 19-07-2024 and marriage certificate dated 18-07-2024."

4. It is stated that a perusal of allegations levelled against the applicant in the FIR lodged on 27.10.2023 registered as F.I.R./ Case Crime No.0259 of 2023 at Police Station- Bijnaur, District- Lucknow, under Sections 376, 323, 504 and 506 I.P.C. by the opposite party no.2/ complainant/ victim would indicate that applicant and victim were known to each other and they were having affair and both were intended to marry each other, however, for some reasons, the applicant could not solemnize marriage with the opposite party no.2/ complainant/ victim and therefore being annoyed, opposite party no.2/ complainant/ victim lodged the aforesaid FIR making allegations therein to attract the offence under Sections 376, 323, 504 and 506 I.P.C. In continuation, it is stated that as per this FIR, which is basis of pending criminal proceedings, as also the statement(s) of the victim recorded during investigation in terms of Sections 161 and 164 Cr.P.C. as also made before Doctor during medical examination and the copy of the messages annexed from Page No.76 to 98 would also indicate that applicant and opposite party no.2/ complainant/ victim were having affair.

5. It is further stated that the aforesaid documents also indicate that the opposite party no.2/ complainant/ victim alleged that on assurance of marriage the applicant established physical relations with her. It is stated that the present case of the applicant is fully covered by 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 and being so the proceedings in issue are liable to be interfered by this Court.

6. Further submission is that during the pendency of the present case, the marriage of applicant and opposite party no.2/ complainant/ victim was solemnized on 18.07.2024 at Arya Samaz Mandir situated at Shivpuri, Kamta, Chinahat, Lucknow, which is evident from Annexure No.9 to the present application.

7. It is accordingly stated that in view of the facts of the case including the allegations levelled against the applicant which in nutshell are to the effect that on assurance of solemnizing marriage, the applicant established physical relations with the opposite party no.2/ complainant/ victim and observations of Hon'ble Apex Court made in the case of Sonu alias Subhas Kumar (supra); Deepak Gulati (supra) and Shambhu Kharwar (supra), which are in favour of the applicant, the proceedings in issue are liable to be quashed.

8. It is further stated that in fact the FIR was lodged by the opposite party no.2/ complainant/ victim only to pressurize the applicant for solemnizing the marriage.

9. Upon consideration of the aforesaid as also the observations on the issue related to establishing physical relationship on assurance of marriage made 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) and present age of the opposite party no. 3/victim i.e. about 23 years, this Court is of the view that interference in the matter is required as 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/ complainant/ victim as also that if this Court declines to interfere in the matter then in that eventuality the future matrimonial life of the opposite party no.2/ complainant/ victim and applicant would be affected rather ruined as also the observations made by Apex Court in the case of State of Karnataka Vs. L. Muniswamy and Others, 1977 (2) SCC 699; State of Haryana Vs. Bhajan Lal and Others, 1992 Supp (1) SCC 335; Prashant Bharti Vs. State (NCT of Delhi), (2013) 9 SCC 293; Rajiv Thapar and Ors. Vs. Madan Lal Kapoor, (2013) 3 SCC 330; Ahmad Ali Quraishi and Ors. Vs. State of Uttar Pradesh and Ors. (2020) 13 SCC 435, according to which inherent power under Section 482 Cr.P.C. (akin to Section 528 BNSS, 2023) could be exercised to prevent abuse of process of any Court or otherwise to secure ends of justice, as also 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, according to which, in given facts, based upon the settlements between the parties the criminal proceedings can be quashed, this Court is of the view that entire criminal criminal proceedings arising out of Case Crime No. 0259/2023, quoted above, are liable to be quashed. Accordingly are hereby quashed.

10. Accordingly, the present application is allowed.

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

Order Date :- 31.1.2025 G. Singh/ Anand