

Vijay Shah And 3 Others vs State Of U.P. And Another on 1 April, 2025

HIGH COURT OF JUDICATURE AT ALLAHABAD

?Neutral Citation No. - 2025:AHC:45589

Court No. - 73

Case :- APPLICATION U/S 482 No. - 8168 of 2019

(Leading Case)

Applicant :- Vijay Shah And 3 Others

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

Counsel for Applicant :- Ashwini Kumar Awasthi, Manish Tiwary (Senior Adv.)

Counsel for Opposite Party :- G.A., Sanjay Kumar Dwivedi

Connected With

Case :- APPLICATION U/S 482 No. - 17865 of 2024

(Connected Case)

Applicant :- Hardik Shah

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

Counsel for Applicant :- Aushim Luthra, Pranav Tiwary

Counsel for Opposite Party :- G.A.

Hon'ble Vikas Budhwar, J.

1. Heard Sri Pranav Tiwary, learned counsel for the applicant in the leading and connected application, Sri S.K. Singh, learned AGA for the State.
2. Though notice has been served upon Sri S.K. Dwivedi, learned counsel for opposite party no.2 but he is not present. The receipt is taken on record.
3. Since the common question are involved in both the applications, thus, they are being taken together and proceeded by a composite order.
4. The leading application had been preferred by father-in-law, mother-in-law, brother-in-law, sister-in-law of daughter of opposite party no.2 Shakshi Sharma. In the said application the relief sought for quashing the charge-sheet dated 07.02.2018 in Case Crime No. 729 of 2016, under Sections 323, 506, 352, 498A IPC and 3/4 D.P. Act, P.S. Ijjatnagar, District Bareilly. This Court proceeded to pass the following order passed on 08.03.2019:

"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 leaned 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 dated 07.02.2018 arising out of case crime no. 729 of 2016, under Sections 323, 506, 352, 498A IPC and 3/4 D.P. Act, Police Station Ijjatnagar, District - Bareilly.

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. 15,000/- 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. 13,000/- 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.

List immediately 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 to case crime no. 729 of 2016, under Sections 323, 506, 352, 498A IPC and 3/4 D.P. Act, Police Station Ijmatnagar, District - Bareilly 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. "

5. Thereafter on 07.05.2024 the following order has been passed:

"1.Heard learned counsel for the applicants, Sri Rajeev Kumar Singh, learned A.G.A. for the State and Sri Sanjay Kumar Dwivedi, learned counsel for opposite party no.2.

2.The instant application has been moved on behalf of the applicants to quash the charge sheet dated 07.02.2018 arising out of Case Crime No. 729 of 2016, under Sections 323, 506, 352, 498A I.P.C. and 3/4 D. P. Act, PS Ijmatnagar, District Bareilly.

3.Contention of learned counsel for the applicants is that dispute between the parties is matrimonial in nature and now both the parties have settled their dispute amicably through written compromise dated 04.11.2023, which has been annexed at page

no.10 to the supplementary affidavit dated 11.03.2024 filed by learned counsel for the applicants. It is further submitted that original deed of compromise has already been filed before the Chief Judicial Magistrate, Bareilly.

4. This fact is not disputed by learned counsel for opposite party no.2.

5. In view of the above submission, the Chief Judicial Magistrate, Bareilly is directed to verify the aforesaid compromise deed after summoning the parties and after verification of compromise deed it will transmit its report to this Court along with copy of verified compromise on or before the next date of listing.

6. List this case in the week commencing 27.05.2024.

7. Till the next date of listing, no coercive action shall be taken against the applicants pursuant to Case Crime No. 729 of 2016, under Sections 323, 506, 352, 498A I.P.C. and 3/4 D. P. Act, PS Izzatnagar, District Bareilly."

6. In so far as the connected application is concerned, the same has been preferred by the husband of the daughter of opposite party no.2, for quashing the impugned charge sheet dated 07.02.2018 as well as summoning order dated 06.06.2018 passed in Case No. 3884 of 2018 (State of U.P. vs. Hardik Shah and Ors) arising out of Case Crime No. 729 of 2016, under Section 498A, 323, 506 and 352 IPC and Section 3/4 D.P. Act, P.S. Izzatnagar, District Bareilly pending in the court of Chief Judicial Magistrate, Bareilly.

7. On the presentation of the said application, this Court on 28.05.2024 proceeded to pass the following order:

"1. Heard learned counsel for the applicants and learned AGA for the State.

2. This application under Section 482 Cr.P.C. has been filed by the applicants for quashing the impugned charge sheet dated 7.2.2018 as well as summoning order dated 6.6.2018 passed in Case No.3884 of 2018 (State of U.P. Vs. Hardik Shah and others) arising out of Case Crime No.729 of 2016, under Sections 498A, 323, 506, 352 IPC and Section 3/4 D.P. Act, P.S. Izzatnagar, District Bareilly pending before the court of C.J.M. Bareilly in the light of compromise arrived at between the parties.

3. Learned counsel for the applicants submits that the parties have entered into a compromise.

4. Learned A.G.A. submits that the compromise effected between the parties may be verified before the court concerned.

5. In the interest of justice, the applicants and the opposite party no.2 are directed to appear before the court concerned on 2.7.2024 and shall submit the compromise,

which shall be verified by the court concerned and a report in this regard shall be submitted before this Court within 15 days thereafter.

6. Connect with Application U/S 482 No.8168 of 2019 (Vijay Shah and 3 others Vs. Sate of U.P. and another).

7. Till the next date of listing, further proceedings in the aforesaid case shall remain stayed. "

8. There is a report of Chief Judicial Magistrate, Bareilly dated 03.08.2024 in the connected application whereby the parties have appeared before the court below and, thereafter, the compromise was verified.

9. Learned counsel for the applicants submits that once the compromise stands entered into between the parties there remains nothing to be further call.

10. The said fact has not been disputed by Sri S.K. Singh, learned AGA.

11. Considering the submissions made across the bar, though has already noted earlier, the applicants had served the notice upon the counsel for opposite party no.2 Sri S.K. Dwivedi, and there happens to be a receipt of acceptance of notice but he is not present.

12. Looking into the facts independent of the following circumstances particularly when there happens to be a report of the court below, itself available in the file, this Court has proceeded with the matter.

13. Accordingly, in view of the fact that the parties have already entered into compromise and the same stands verified and now nothing remains to be further proceeded. Accordingly both the applications are allowed.

14. The proceedings of charge sheet dated 07.02.2018 as well as summoning order dated 06.06.2018 passed in Case No. 3884 of 2018 arising out of case crime no. 729 of 2016 under Sections 498A, 323, 506 & 352 IPC and Section 3/4 D.P. Act, P.S. Izzatnagar, District Bareilly pending in the court of Chief Judicial Magistrate, Bareilly against the applicants are hereby quashed.

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