

Allahabad High Court

Umakant Maurya And Another vs State Of U.P. And Another on 13 November, 2019

Bench: Rajiv Gupta

HIGH COURT OF JUDICATURE AT ALLAHABAD

?Court No. - 72

Case :- APPLICATION U/S 482 No. - 29721 of 2018

Applicant :- Umakant Maurya And Another

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

Counsel for Applicant :- Chandra Sen Pal, Kailash Nath

Counsel for Opposite Party :- G.A., Nand Lal Yadav

Hon'ble Rajiv Gupta, J.

Heard learned counsel for the applicants, Sri Nand Lal Yadav, learned counsel for the complainant, learned AGA for the State and perused the record.

This application under Section 482 CrPC has been filed by the applicant with the prayer to quash the impugned order dated 27.4.2018 as well as entire criminal proceedings of Complaint Case No. 303 of 2017 (Suman Maurya Vs. Umakant Maurya and another), under Sections 498-A, 323, 504, 506 IPC and 3/4 of D.P. Act, P.S. Phoolpur, District- Azamgarh, pending in the court of Judicial Magistrate-13, Azamgarh.

This Court vide order dated 4.9.2018 had referred the matter to the Mediation Centre in order to enable the parties to enter into amicable settlement, however Mediation Centre vide its report dated 28.2.2019 has reported that the parties could not reach at any settlement and mediation has failed.

As per the allegations made in the complaint, it is alleged that opposite party no. 2 was married to applicant no. 1 on 7.12.2015, however after the said marriage the applicants started demanding additional dowry and for non-fulfilment of demand of additional dowry, they started torturing and maltreating her and also assaulted her and turned her out of her matrimonial homee.

Learned counsel for the applicants has submitted that from the perusal of the allegations made in the complaint and the material collected during the course of inquiry, no offence is disclosed against the applicants and the present prosecution has been instituted with a malafide intention for the purposes of harassment. He has pointed out certain documents and statements in support of his contention.

Per contra, learned AGA has submitted that from the perusal of the allegations made in the complaint and the material collected during the course of inquiry, prima facie offence is clearly made out against the applicants and as such, entire proceedings cannot be quashed.

At this stage only prima facie case is to be seen in the light of the law laid down by the Supreme Court in the cases of R.P. Kapur Vs. State of Punjab, A.I.R. 1960 S.C. 866, State of Haryana Vs. Bhajan Lal, 1992 SCC (Cr.) 426, State of Bihar Vs. P.P. Sharma, 1992 SCC (Cr.) 192 and lastly Zandu Pharmaceutical Works Ltd. Vs. Mohd. Saraful Haq and another, (Para-10) 2005 SCC (Cr.) 283.

The prayer for quashing the impugned order as well as proceedings of the aforementioned case is refused.

However, it is directed that if the applicants appear and surrender before the court below within 30 days from today and apply for bail, their prayer for bail shall be considered and decided in view of settled law laid down by this Court in the case of Amrawati and another Vs. State of U.P. reported in 2004 (57) ALR 290 as well as judgement passed by Hon'ble Apex Court in the case of Lal Kamendra Pratap Singh Vs. State of U.P. reported in 2009 (3) ADJ 322 (SC).

For a period of 30 days from today or till the applicants surrender and apply for bail, whichever is earlier, no coercive action shall be taken against them. However, in case, the applicants do not appear before the Court below within the aforesaid period, coercive action shall be taken against them.

With the aforesaid directions, this application is finally disposed of.

Order Date :- 13.11.2019 KU