
(2014) 02 AHC CK 0075

In the Allahabad High Court

Case No : Application U/s 482 No. 3305 of 2014

Javed and Others

APPELLANT

Vs

State of U.P. and Another

RESPONDENT

Date of Decision : 11-02-2014

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482
Dowry Prohibition Act, 1961 — Section 3 4
Penal Code, 1860 (IPC) — Section 406

Citation : (2014) 02 AHC CK 0075

Hon'ble Judges : Naheed Ara Moonis, J

Bench : Single Bench

Advocate : A.M. Tripathi, for the Appellant;

Final Decision : Dismissed

Judgement

Naheed Ara Moonis, J.—Heard learned counsel for the applicants and the learned AGA and have taken through the record. By means of the present application u/s 482 Cr.P.C. the applicants have invoked inherent jurisdiction of this Court with a prayer to quash the charge sheet dated 11.10.2011 along with criminal proceedings of case crime No. 175 of 2011 under Sections 406 IPC read with section 3/4 Dowry Prohibition Act, P.S. Kotwali, District Meerut pending in the court of Judicial Magistrate-II Meerut.

2. It is contended by learned counsel for the applicants that the applicants are being prosecuted in the present case pursuant to the false allegations made in the first information report Prima facie no offence is made out against the applicants as the marriage was not performed between the applicant No. 1 and the daughter of the complainant, hence the allegation with regard to demand of dowry and the criminal breach of trust is wholly unfounded. The charge sheet submitted by the investigating officer is not based on the clinching material and evidence. The prosecution of the applicants in the present case is nothing but sheer abuse of process of law therefore, the same may be quashed.

3. Per contra learned AGA contended that the investigation was done in a fair and impartial manner and the investigating agency collected credible and clinching material on the basis of which charge sheet was submitted. The charge sheet was submitted much prior to the order passed by this Court in Criminal Misc. Writ Petition No. 17971 of 2011 (Javed & others v. State of U.P. and others). The writ petition was dismissed with certain observations.

4. From the perusal of the materials on record and looking into the facts and after considering the arguments of the learned AGA for the State, it cannot be said that no offence has been made out against the applicants. Cognizance taken by the trial court, whereby the applicants have been summoned to face the trial suffers from no illegality and as such the prayer for quashing the proceedings is refused.

5. At the stage of issuing process the court below is not expected to examine and assess in detail the material placed on record. Only this has to be seen whether prima facie cognizable offence is made out or not. The Apex Court has also laid down the guidelines in the case State of Haryana v. Bhajanlal, 1999 SCC(CrI) 426, and State of Bihar and Another Vs. P.P. Sharma, IAS and Another, where the criminal proceedings could be interfered and quashed in exercise of its power envisaged u/s 482 Cr.P.C.

6. Having considered rival submissions advanced by the learned counsel for the parties, this Court does not find any justifiable ground for quashing the proceedings or the charge sheet of the aforesaid case in exercise of its inherent powers conferred u/s 482 Cr.P.C.. The application is accordingly dismissed.

7. However, considering the facts and the circumstances of the case, it is directed that in case applicants appear before the court concerned in the aforesaid case within 30 days from today and apply for bail, the same shall be heard and disposed of in view of decision rendered in the case Amarawati and Another (Smt.) Vs. State of U.P., which was approved by the Hon''ble Apex Court in Lal Kamendra Pratap Singh Vs. State of U.P. and Others,

8. No coercive steps shall be taken against the applicants within the stipulated period of 30 days. In case the applicants do not appear before the court below within stipulated time the court below shall be at liberty to take appropriate action against the applicants in accordance with law.