

(2015) 05 AHC CK 0263

In the Allahabad High Court

Case No : Criminal M. Application No. 13426 of 2015

Rani Kushwaha and Others

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 19-05-2015

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482

Protection of Women From Domestic Violence Act, 2005 — Section 12, 18, 19, 2(f), 21

Citation : (2015) 3 ACR 2654 : (2015) 6 ALJ 54

Hon'ble Judges : Naheed Ara Moonis, J.

Bench : Single Bench

Advocate : S.K. Nigam, for the Appellant

Final Decision : Dismissed

Judgement

Naheed Ara Moonis, J.—Heard learned counsel for the applicants and the learned A.G.A. and have taken through the record. By means of the present application under Section 482, Cr.P.C. the applicants have invoked inherent jurisdiction of this Court with a prayer to quash the further proceedings of Smt. Soni Kushwaha v. Ashok Kushwaha and others, Case No. 714 of 2015, under Section 12 of Protection of Women from Domestic Violence Act, 2005 Police Station Sachendi District Kanpur Nagar pending in the court of Addl. Chief Metropolitan Magistrate VIIth Kanpur Nagar.

2. It is submitted by the learned counsel for the applicants that the applicants are maliciously being prosecuted in the present case on the basis of false allegations made in the complaint. The opposite party No. 2 is the wife of the Ashok Kushwaha. The applicants are mother-in-law and the family members of her in laws. The marriage of the opposite party No. 2 was performed with Ashok Kushwaha on 6.2.2010 in accordance with Hindu Customs and Rites. The complaint was filed by the opposite party No. 2 under Section 12, 18, 19, 21 and 22 of the Protection of Women from Domestic Violence Act with the allegation that the opposite party No. 2 has been bearing the brunt and chagrin of the

members of her Matrimonial house including the husband on account of non-fulfilment of demand of dowry. The opposite party No. 2 was ostracized from the matrimonial house on 31.10.2014 building the pressure to bring Rs. 2.00 lacs. The proceeding is not maintainable against the applicants who are not the family members of the husband of the opposite party No. 2 therefore, the proceedings against the applicants pursuant to the aforesaid complaint may be vitiated.

3. Per contra learned A.G.A. opposed the contention of the learned counsel for the applicants contending that the application under Section 482, Cr.P.C. is premature and not maintainable in view of the fact that the court below has not passed any order prejudicing the interest of the applicants. Mere issuance of the notice will not accrue any right to the applicants to prefer the present petition. The applicants will have ample opportunity to raise their objection before the court below. Having considered the submission advanced by the learned counsel for the parties, it emerges out that the applicants have filed the instant application under Section 482, Cr.P.C. only against the issuance of notices. Only issuance of notice will not accrue any right to the applicants to invoke inherent jurisdiction of this Court under Section 482, Cr.P.C. It would be inappropriate to interfere with the order issuing notice. Complaint can be made against the relatives of the husband. The relatives of husband is not excluded as defined in Section 2(f) of the Act vis-?-vis 2 (g) which enables the wife to file complaint against husband and any relative of the husband in respect of the domestic violence of any kind as defined under Section 3 of the Act. The applicants will have ample opportunity to rake up their grievance at the appropriate stage. This Court does not see any justifiable ground to throttle the proceedings of the aforesaid case at the very inception. The application under Section 482, Cr.P.C. is pre-mature and is accordingly dismissed.