

(2012) 01 AHC CK 0537

In the Allahabad High Court

Case No : Criminal Misc. Writ Petition No. 449 of 2012

Sharda Singh and Others

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 12-01-2012

Acts Referred:

Dowry Prohibition Act, 1961 — Section 3, 4
Penal Code, 1860 (IPC) — Section 323, 342, 498A, 504

Citation : (2012) 01 AHC CK 0537

Hon'ble Judges : Vinay Kumar Mathur, J;Devendra Pratap Singh, J

Bench : Division Bench

Final Decision : Disposed Of

Judgement

1. Heard Learned Counsel for the parties. The reliefs claimed in this petition is to quash an FIR lodged as case Crime No. 446 of 2011 under Sections 498A, 323, 504, 342 IPC a and 3/4 D.P. Act P.S. Chauri Chaura District Gorakhpur.

2. Earlier the husband had filed Criminal Misc. Writ Petition No. 167 of 2012 and the Hon"ble Court had passed the following order on 6th of January 2012 relegating the parties to mediation:

Heard Learned Counsel for the petitioners and learned Additional Government Advocate.

This writ petition has been filed for quashing of an FIR in case crime No. 446 of 2011 under Sections 498A, 323, 504, 342 IPC and 3/4 D.P. Act P.S. Chauri Chaura District Gorakhpur.

The writ court is not competent to go into questions of facts and on the allegations, it cannot be said that no prima facie case is disclosed.

Hence, the FIR cannot be quashed by this Court at this stage.

However, in view of the contention of the counsel for the petitioners that dispute can be settled amicably between the parties and the petitioners are ready to

deposit expenses for the mediation, it is provided that if the petitioners deposit Rs. 7000/before District Legal Services Authority, Gorakhpur, out of which Rs. 5000/shall be given to Smt. Meera Devi on her appearance before the mediating agency and appears before the Magistrate concerned within three weeks from today, the magistrate concerned shall release the petitioners on interim bail on their furnishing personal bonds. After releasing the petitioners on interim bail, the magistrate concerned shall himself or through any agency existing for mediation/conciliation or counseling in the district send the matter for mediation/conciliation or counseling and in case the matter is amicably resolved in the said proceedings, the Investigating Agency and the court concerned may take a decision as to whether final report may be submitted or appropriate orders be passed in the criminal proceedings. The mediating agency shall inform the factum of success or failure of the mediation within one week of conclusion of the mediation/conciliation proceedings. In case the matter could not be resolved in the mediation proceedings, the court concerned may consider the matter of final bail on merits in accordance with law.

The mediation proceedings should be concluded within a period not exceeding three months from the date of initiation of the proceedings. However, if for any unforeseeable reason it become imperative to seek extension of time for concluding the mediation proceedings, the concerned Magistrate shall be empowered to grant such extension of time as he deems fit and proper.

For a period of three weeks from today or till the petitioners appear/surrender before the court below and apply for bail (whichever is earlier), the petitioners shall not be arrested in the aforesaid case crime.

It is made clear that if the petitioners fails to appear before the court concerned for the purpose of applying for bail within the time allowed or fails to deposit the sum as directed above, the relief given by this order shall not apply and no further extension of time will be given.

With the aforesaid observations, this petition is disposed off.

3. Since the parties have already been relegated for mediation, the petitioners may not be arrested in the aforesaid case crime till and subject to the outcome of the mediation. Accordingly, the writ petition is disposed off.