

(2009) 06 AHC CK 0040
In the Allahabad High Court

Sunita Kapoor and others

APPELLANT

Vs

State of U.P.

RESPONDENT

Date of Decision : 09-06-2009

Acts Referred:

Citation : (2009) 06 AHC CK 0040

Hon'ble Judges : Alok Kumar Singh, J

Final Decision : Disposed Of

Judgement

Alok K. Singh, J.

Learned A.G.A. has put in appearance on behalf of opposite parties nos.1 to 3.

At this stage notice in respect of opposite party no. 4 is dispensed with.

The petition under Section 482 Cr.P.C. has been filed for quashing of the chargesheet No. 246 of 2008 pertaining to Case Crime No. 90 of 2008, under Sections 498A, 323, 504, 506 I.P.C. and Section 3/4 Dowry Prohibition Act, Police Station Ashiyana, District Lucknow.

The allegations are factual in nature that cannot be adjudicated in the present application. There does not appear to be any sufficient cogent ground for quashing of the entire chargesheet.

Learned counsel for the petitioners submits that an order may be passed directing the learned lower court to consider their bail applications expeditiously. He does not want to press any other relief.

It is submitted on behalf of the petitioners that the main allegation appears to be against the husband. Though the marriage was negotiated on internet. It is further submitted that the basis of the chargesheet is the F.I.R. which itself is an outcome of the normal wear and tear of the married life. Be that as it may. But as far as the petitioners are concerned they happen to be unfortunate motherinlaw (Saas), brotherinlaw (Devar), sisterinlaw (Nanand) and Mause of

the husband who have nothing to do in this regard. It is also brought to the notice of the Court that earlier the F.I.R. was challenged before a Division Bench of this Court which was pleased to pass an order dated 15.05.2008 (Annexure5) staying the arrest of the petitioners. It is said that the petitioners being law abiding citizens intend to appear before the court below. Therefore it is directed that if the applicants appear before the court concerned and apply for bail within four weeks from the date of certified copy of the order is produced before it, the court(s) below shall dispose of the applications expeditiously preferably on same day, if possible, in accordance with the Full Bench decision of this Court Srimati Amrawati and another Vs. State of U.P. 2004 CBC page 705. Thereafter, the trial court may permit the applicants to appear through counsel and raise their objection, if any, against the initiation of trial proceedings against them at the stage of framing of charges. This relief is being granted up to the stage of framing of charges only provided the applicants after securing bail (1) furnish an undertaking to the satisfaction of the trial court that their counsel will remain present on their behalf and will represent them on each and every date, (2) they will not raise any objection as to the actual presence of the person who is facing trial, (3) no objection shall be raised that the evidence is being recorded in their absence, (4) an undertaking will also be given to the effect that they will be present before the court whenever called upon to do so at any stage. These directions are being accorded in the light of the observations made by Hon''ble Apex Court in the case of M/s Bhaskar Industries Ltd. Vs. Bhiwani Denim and Apparels Limited reported in 2001 Cri. Law Journal page 4250.

With these observations this application under Section 482 Cr.P.C. is finally disposed of.