
(2016) 12 AHC CK 0040

In the Allahabad High Court

Case No : Matters Under Article 227 No. 9853 of 2016

Varun Kushwaha

APPELLANT

Vs

State of U.P.

RESPONDENT

Date of Decision : 22-12-2016

Acts Referred:

Constitution of India, 1950 — Article 227

Citation : (2017) 1 ADJ 803 : (2017) 2 AllWC 1628

Hon'ble Judges : Pankaj Mithal, J.

Bench : Single Bench

Advocate : C.S.C. and Kshitij Shailendra, Advocate, for the Respondent; Anoop Trivedi, Advocate, for the Petitioner

Final Decision : Allowed

Judgement

Pankaj Mithal, J. - Heard Sri Anoop Trivedi, learned counsel for the petitioner and Sri Kshitij Shailendra, learned counsel for the respondent.

2. Sri Anoop Trivedi, learned counsel for the petitioner husband very fairly, in order to avoid any misgiving accepts that the averments made in paragraphs 3 to 13 of this petition are unnecessary and may be treated as withdrawn. His request is accepted and paragraphs 3 to 13 of the petition are expunged.

3. There is a matrimonial dispute between the petitioner and respondent No.2 who are husband and wife. Apart from institution of suit for divorce various other suits and criminal proceedings have been initiated by either of them against each other and their family members.

4. As on date the following civil and criminal cases between the parties are pending in various courts including High Court:

S.No.

Case/Crime No.

Applicant/Opp. Parties

Under Sections of Law

Court Special

1.

Case/Crime No.62/2012

Varun Kushwaha v. Shweta Chauhan Mr. Ramesh Singh Pankaj Chauhan

380, 457, 504, 506 IPC

Judge (SC/ST Act), Meerut

2.

Case No. 612/2012 Now 2300105/2014

Varun Kushwaha v. Shweta Chauhan HDFC Bank, Meerut

Bank Locker Related

Civil Judge (SD) Moradabad

3.

Case No. 1620/2013

Varun Kushwaha v. Shweta Chauhan

Divorce U/s 13 H.M.A.

Family Court, Meerut

4.

Case No. 1464/2013

Varun Kushwaha v. Shweta Chauhan and another

ANSAL Housing Matter

Civil Judge (SD) Meerut

5.

Case No. 1849/2013

Varun Kushwaha v. Shweta Chauhan and HDFC Bank Manager, Meerut

IPC 420

S. CJM, Meerut

6.

Case No. 950/2013

Varun Kushwaha v. Shweta Chauhan and 2 others

IPC 406, 420

ACJM, Meerut

7.

Case No. 14/2014

Varun Kushwaha v. Shweta Chauhan

U/s 7, 9, 25 of Guardian & Ward Act R/W Section 13

Family Court, Moradabad

8.

Case No. 91/2014

Varun Kushwaha v. Shweta Chauhan

DV Act U/s 340 Cr.P.C.

ACJM 2 Moradabad

9.

Criminal Appeal No. 55/2015

Varun Kushwaha and another v. Shweta Chauhan State of UP

Against Case No.204/2012 Converted to Case No. 1113/2014 for summoning of documents U/s 91 Cr.P.C.

ADJ-8 Moradabad

10.

Criminal Revision No.338/2015

Varun Kushwaha and another v. Shweta Chauhan State of UP

Against Case No.1511/2012 summoning order

ADJ-10 Moradabad

11.

Case No. 32602/2014

Dr. Jaivir Singh v. State of UP

U/s 482 for quashing of Case/Crime No.8784/2014 Case Crime No. 75/2014

High Court Allahabad

12.

Case No. 480/2014

Kusum Singh and another v. State of UP

Transfer Application Criminal of Crime No. 975/2011 S.T.No.239/2013

High Court Allahabad

13.

Case No. 3581/2015

Varun Kushwaha v. State of UP

U/s 482 Against Case No.38/2012 Interim Order

High Court Allahabad

14.

Case No. 639/2016

Arun Singh v. State of UP

Criminal Revision against summoning in Crime No.975/2011 ST No.239/2013

High Court Allahabad

15.

Crime No. 975/2011 FIR No.792/11 ST No.239/2013

Shweta Chauhan v. Varun Kushwaha Dr. Jaivir Singh Kusum Singh and Arun Singh

498A, 316, 323, 504, 506 IPC and 3/4 D.P. Act

Fast Track Court ? 2 Moradabad

16.

Case No.93/2014

Shweta Chauhan v. Dr. Jaivir Singh

Criminal Bail Cancellation in ST No.239/2013

Fast Track Court ? 2 Moradabad

17.

Case No.38/2012

Shweta Chauhan v. Varun Kushwaha

125 Cr.P.C.

Family Court, Moradabad

18.

Case No. 193/2013

Chiya Thakur through Shweta Chauhan v. Varun Kushwaha

125(2) Cr.P.C.

Family Court, Moradabad

19.

Case No. 204/2012 converted to Case No. 2601113/2014

Shweta Chauhan v. Varun Kushwaha and 4 others

Domestic Violence Act

ACJM-6 Moradabad

20.

Case No. 1511/2012

Shweta Chauhan v. Varun Kushwaha and 3 others

323, 504, 511

IPC ACJM-6 Moradabad

21.

Case/Crime No. 620/2012 Now Complaint Case No.2209733/ 2014

Shweta Chauhan v. Varun Kushwaha and 2 others

IT Act 66 & 420 IPC

CJM, Moradabad

22.

Case/Crime No. 2208784/2014 FIR No.64/2014

Shweta Chauhan v. Dr. Jaivir Singh

IT Act 67

CJM, Moradabad

23.

Case No.07/2015

State v. D.P. Shukla

U/s 349 Cr.P.C.

FTC-2, Moradabad

24.

Case No. 34490/2012

Shweta Chauhan and another v. State of U.P.

U/s 482 Cr.P.C. For quashing of Case/Crime No. 62/2013

High Court, Allahabad

25.

Case No. 44627/2013

Shweta Chauhan and another v. State

U/s 482 Cr.P.C. For quashing of Case No. 950/2013

High Court, Allahabad

26.

Case No. 19585/2014 Case No. 18913/2014

Shweta Chauhan v. Varun Kushwaha HFC Bank Manager v. Varun Kushwaha

U/s 482 Cr.P.C. For quashing of Case No. 1849/2013

High Court, Allahabad

27.

Case No. 183/2016

Shweta Chauhan v. Varun Kushwaha

Civil Transfer of Divorce Case

High Court, Allahabad

28.

Case No. 846/2013

Shweta Chauhan v. State of U.P.

Criminal Revision against quashing of Case No. 145/2012 U/S 406 IPC

High Court, Allahabad

5. The Divorce Suit No.1620 of 2013 (Varun Kushwaha v. Shweta Chauhan) is pending in the Family Court, Meerut.

6. The petitioner has filed this petition alleging that both the parties have settled their dispute through a common mediator Sri Kshitij Shailendra, a counsel of this Court and a compromise has been entered into between them on 26.11.2016 wherein it has been agreed that the parties will withdraw all the above cases and that they will start living separately. The husband would pay a sum of Rs.30 lacs by two bank drafts of Rs.24.35 lacs and Rs.5.65 lacs to the respondent wife in

full and final settlement of all her claims and dues and that the divorce suit pending in Meerut would be transferred to Moradabad where the wife is said to be living for passing a decree of divorce in terms of the compromise.

7. On the presentation of this petition so as to ensure that the husband and wife are still sticking to the compromise which they have entered into as aforesaid, the Court had required their presence in the Court.

8. Both of them are present in Court and have been identified by their respective counsel. They submit that all their disputes have been settled through the good offices of the mediator Sri Kshitij Shailendra and that they have no objection if all the cases initiated by them or their family members whether civil or criminal are directed to come to an end and a decree of divorce is passed as per the compromise. In other words, they do not dispute the compromise and are ready and willing to act accordingly.

9. It has been informed that in terms of the aforesaid compromise the divorce suit has already been transferred to the Family Court at Moradabad. The two drafts of Rs.24.35 lacs and 5.66 lacs have been handed over by the petitioner husband to Sri Kshitij Shailendra, counsel for the respondent wife. Sri Kshitij Shalendra accepts having received the two bank drafts and submits that the same will be handed over to the respondent wife during the course of the day.

10. Some of the criminal cases are in relation to non-compoundable offences but even cases in connection with such offences can be set at rest in the larger interest of justice, if the parties agree and the court feels that it is best in the interest of all concerned. In *B.S. Joshi v. State of Haryana* (2003) 4 SCC 675, the Apex Court has held that the High Court in exercise of its inherent power under Section 482 Cr.P.C. can quash the criminal proceedings if the Court is satisfied that no useful purpose shall be served by allowing the prosecution to continue.

11. Since the dispute is matrimonial and as good sense has prevailed upon parties and they have agreed for settlement of all disputes and withdrawal of all civil and criminal cases in connection thereto, the Court considers it expedient in the interest of justice and in the judicial interest as well following the principle of live and let live, to set at rest all the disputes between the parties and to close the entire litigation between them.

12. Accordingly, in the peculiar facts and circumstances of the case, the petition is allowed and the proceedings of all the civil and criminal cases between the parties as detailed above, except Divorce Suit No.1620 of 2013 (*Varun Kushwaha v. Shweta Chauhan*) are hereby set-aside/quashed with the direction to the Family Court, Moradabad to consider the aforesaid divorce suit in terms of the compromise within a period of one month of receipt of its record after transfer from district Meerut.

13. The parties are at liberty to live a free and independent life as soon as the decree of divorce is passed by the Family Court, Moradabad.

14. The petition is allowed.