

Court No. - 71

Case :- APPLICATION U/S 482 No. - 33472 of 2024

Applicant :- Atul Yadav

Opposite Party :- State of U.P. and Another

Counsel for Applicant :- Kunwar Ajay Singh

Counsel for Opposite Party :- G.A.

Hon'ble Rajeev Misra,J.

1. Heard Mr. P.S. Yadav, Advocate, holding brief of Mr. Kunwar Ajay Singh, the learned counsel for applicant and the learned A.G.A. for State-

2. Perused the record.

3. Applicant-Atul Yadav, who is a charge sheeted accused, has approached this Court by means of present application under Section 482 Cr.P.C. with the following prayer:-

"It is, therefore, most respectfully prayed that this Hon'ble Court be pleased to allow this application and quash impugned charge-sheet dated 19.12.2022 well as cognizance/summoning as order dated 16.06.2024 passed by Additional District Judge Court No.13/ Special Judge POCSO Act, Sessions Kanpur Dehat in Sessions Case No. 1200 of 2024 (State Vs. Atul Yadav and others) arising out of Case Crime No. 450 of 2019, under Sections 363, 366, 376 504, 506 IPC and 3/4 POCSO Act, Police Station-Ghatampur, District- Kanpur Nagar, pending in the Court of Special Judge POCSO Act, Kanpur Dehat.

It is further prayed that this Hon'ble Court may be pleased to stay/ quash Sessions entire proceeding of sessions case the no. 1200/2024 (State Vs. Atul Yadav and others) arising out of case crime no. 450/2019, under Sections 363, 366, 376 IPC and 3/4 POCSO Act, Police Station-Ghatampur, District- Kanpur Nagar, pending in the Court of Additional District Judge Court No.13/ Special Judge POCSO Act, Kanpur Dehat in pursuance of compromise/settlement dated 11.09.2024 entered between the applicant /accused and daughter of the opposite party no.2/deponent (victim). And or to pass other further order which this Hon'ble Court may deem fit and proper in the facts and circumstances of the case."

4. Learned counsel for applicant submits that FIR dated

18.05.2019 giving rise to present criminal proceedings was lodged by first informant/opposite party-2 Subhash Yadav (father of the prosecutrix) the prosecutrix i.e. daughter of first informant opposite party-2 has solemnized marriage with the applicant. From the said wedlock two children are born. The prosecutrix is residing with the applicant as his legally wedded wife. As such, the criminality, if any, committed by applicant stands washed off. The affidavit in support of present application has been sworn by the prosecutrix herself. On the above premise, he, therefore, submits that in case impugned proceedings are allowed to continue a happy family shall stand broken. As such, the impugned proceedings are liable to be quashed by this Court.

5. Per contra, the learned A.G.A. for State-opposite party-1 has opposed the present application. He submits that since on the date of occurrence the prosecutrix was minor and there being no consent of the minor in respect of the marriage of prosecutrix with applicant, no indulgence be granted by this Court in favour of applicant. However, he could not dislodge the factual and legal submissions urged by the learned counsel for applicant.

6. Notice on behalf of opposite party-1 has been accepted by the learned A.G.A.

7. Issue notice to opposite party-2.

8. All the opposite parties may file their respective counter affidavits within 4 weeks'. Applicant will have 2 weeks' thereafter to file rejoinder affidavit.

9. List for admission on 13.02.2025.

10. Considering the facts and circumstances of the case and also the submissions urged by the learned counsel for applicant as noted herein above, as an interim measure, it is, hereby provided that until further orders of this Court, further proceedings of Sessions Case No. 1200 of 2024 (State Vs. Atul Yadav and others) arising out of Case Crime No. 450 of 2019, under Sections 363, 366, 376 IPC and 3/4 POCSO Act, Police Station-Ghatampur, District- Kanpur Nagar pending in the Court of Additional District Judge Court No.13/ Special Judge POCSO Act, Kanpur Dehat shall remain stayed.

Order Date :- 2.1.2025

Imtiyaz