

Court No. - 87

Case :- APPLICATION U/S 482 No. - 40385 of 2024

Applicant :- Smt. Rekha Kumari

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

**Counsel for Applicant :- Anita Singh, Kumari Poonam
Rajpoot, Nirmla Kumari, Prem Babu Verma**

Counsel for Opposite Party :- G.A.

Hon'ble Prashant Kumar, J.

1. Heard Shri Prem Babu Verma, appearing for the applicant, learned A.G.A. for the State and perused the records.

2. The instant application under Section 482 of Cr.P.C. has been filed by the applicants praying for quashing of the summoning order dated 25.07.2022 passed by the learned Special CJM, Agra, as well as entire proceeding of Complaint No. 5311 of 2020 (Neelam Singh vs. Smt. Rekha Kumari and others), under section 406 I.P.C., Police Station Sadar Bazar Agra, District Agra.

3. The submission of learned counsel for the applicant is that applicant is legally wedded wife of opposite party no. 2. Due to matrimonial discord she started living in her parental house. Further submission is that due to atrocities committed by opposite party no. 2, applicant had filed an F.I.R. against her husband in Case Crime No. 605 of 2020, under sections 498A, 323, 504, 506 I.P.C. and section 3/4 D.P. Act, at P.S. Sadar, District Agra, in which police after investigation submitted charge-sheet and learned Magistrate has taken cognizance and register a Case numbered as Case No. 41088 of 2020. Thereafter applicant had filed a complaint under section 12 of Protection of Women from Domestic Violence Act on 14.09.2020, another complaint under section 406 I.P.C. at P.S. Sadar Bazar, District Agra before the trial court, both the complaints are pending. Further submission is that in the meantime applicant had filed application under section 125 Cr.P.C. for maintenance,

which was rejected by the Family Court, Agra vide order order dated 21.08.2024. Further submission is that in counterblast to the aforementioned case present criminal complaint has been filed by the opposite party no. 2 on frivolous allegations, in which, learned Magistrate proceeded with the complaint and after taking evidence under sections 200 and 202 of the Cr.P.C. has passed the impugned order summoning applicant to face trial under section 406 I.P.C. His further submission is that the order passed by the learned Magistrate is a sheer abuse of the process of the law, as it has been passed without considering the fact that the complaint has been lodged by her husband in counterblast to the above said proceedings, therefore, the entire proceedings relating to the complaint case be quashed.

4. Matter requires consideration.

5. Notice on behalf of the State has been accepted by learned A.G.A.

6. Issue notice to opposite party no. 2 returnable at an early date. Steps be taken within one week.

7. The opposite parties are granted four weeks' time to file counter affidavit and the applicant will have two weeks' thereafter to file rejoinder affidavit.

8. List on 08.07.2025.

9. Till then, the present Criminal Proceedings initiated against the applicant in the aforementioned case is kept in abeyance.

Order Date :- 25.4.2025

Bhanu