



2026:AHC:62925

HIGH COURT OF JUDICATURE AT ALLAHABAD

APPLICATION U/S 482 No. - 42291 of 2024

Manish

.....Applicant(s)

Versus

State of U.P. and Another

.....Opposite Party(s)

Counsel for Applicant(s) : Kumar Dhananjay
Counsel for Opposite Party(s) : Ajay Singh Yadav, G.A., Shubham Yadav

Court No. - 81

HON'BLE CHAWAN PRAKASH, J.

1. Heard Sri Kumar Dhananjay, learned counsel for applicant, learned counsel for opposite party No.2 and learned A.G.A. for the State.
2. The present application under Section 482 Cr.P.C. has been filed for quashing the entire proceedings of Complaint Case No.127368 of 2022 (Smt. Poorvi Agarwal Vs. Manish) under Sections 323, 506 I.P.C., Police Station Mahila Thana, District Ghaziabad and also set aside the summoning order dated 12.09.2023 passed by learned Civil Judge (Junior Division)/F.T.C.-I/Judicial Magistrate, Court No.32, Ghaziabad, pending before learned Civil Judge (Jr. Division)/F.T.C.-I (Crime Against Women), Ghaziabad.
3. Learned counsel for the applicant submits that the marriage between the applicant and opposite party No.2 was solemnized on 13.11.2020, and out of the said wedlock, a female child was born on 06.12.2021. It is alleged by opposite party No.2 that soon after the marriage, she was subjected to harassment and cruelty by the applicant. It is further submitted that opposite party No.2 had earlier filed proceedings under Section 125 Cr.P.C. seeking maintenance, which were referred to mediation. The applicant appeared before the Mediation Centre on 24.12.2021 and 10.01.2022. It is alleged that during the said mediation proceedings, the applicant threatened opposite party No.2 to kill her. Thereafter, opposite party No.2 moved an application under Section 156(3) Cr.P.C. on 26.09.2022 against the applicant, leveling allegations of harassment and criminal intimidation. The said application was treated as

a complaint case by the learned Magistrate vide order dated 19.12.2022. In support of the complaint, the complainant was examined under Section 200 Cr.P.C., and her witnesses, namely, Bal Krishna Agarwal and Sunil Kumar, were examined under Section 202 Cr.P.C. It is further submitted that although opposite party No.2 has alleged that the applicant had threatened her during the mediation proceedings but no such allegation was made by her before the Mediation Centre during the mediation proceeding. Upon consideration of the said material, the learned Magistrate summoned the applicant under Sections 323 and 506 I.P.C. Learned counsel for the applicant further submits that the allegations made in the complaint are false, concocted, and motivated, and that even if the entire prosecution story is taken at its face value, no prima facie case is made out against the applicant. It is contended that the learned Magistrate has failed to consider the material on record, facts and circumstances of the case and has passed the impugned summoning order without due application of judicial mind. It is, therefore, submitted that the impugned summoning order is illegal, arbitrary, and liable to be set aside.

4. Per contra, learned counsel for opposite party No.2 has opposed the submissions advanced on behalf of the applicant. It is contended that on 24.12.2021 and 10.01.2022, when opposite party No.2 appeared before the Mediation Centre in connection with the mediation proceedings, the applicant threatened her to withdraw the case and also threatened to kill her. It is further alleged that the applicant pushed opposite party No.2, as a result of which she sustained injuries. It is further submitted that thereafter opposite party No.2 moved an application under Section 156(3) Cr.P.C., which was treated as a complaint case vide order dated 19.12.2022. In support of the complaint, the complainant was examined under Section 200 Cr.P.C., and her witnesses, namely, Bal Krishna Agarwal and Sunil Kumar, were examined under Section 202 Cr.P.C. Thereafter the learned Magistrate summoned the applicant on 12.9.2023 under Sections 323, 506 I.P.C. It is thus contended that the learned Magistrate has rightly passed the impugned summoning order and has not committed any illegality in passing the same. Therefore, the present application is liable to be dismissed.

5. From the perusal of the record, it transpires that the allegation against the on 24.12.2021 and 10.01.2022, when opposite party No.2 appeared before the Mediation Centre in connection with the mediation proceedings, the applicant threatened her to withdraw the case and also threatened to kill her. Thereafter the opposite party No.2 moved an application under Section 156(3) Cr.P.C., which was treated as a complaint case vide order dated 19.12.2022. The opposite party No.2 was examined under Section 200 Cr.P.C., and her witnesses were examined under Section 202 Cr.P.C. The learned Magistrate summoned the applicant vide order dated 12.09.2023 under Sections 323 and 506 I.P.C. A perusal of the impugned summoning order reveals that the learned Magistrate has duly considered the averments made in the complaint as well as the statements of the complainant and the witnesses recorded under Sections 200 and 202 Cr.P.C. The learned Magistrate has recorded sufficient and cogent reasons while passing the impugned order.

6. From the perusal of the material on record and looking into the facts of the case at this stage, it cannot be said that no offence is made out against the applicant. All the submission made at the bar relates to the disputed question of fact, which cannot be adjudicated upon by this Court in exercise of power conferred under Section 482 Cr.P.C. At this stage only prima facie case is to be seen in the light of the law laid down by Supreme Court in cases of **R.P. Kapur Vs. State of Punjab, A.I.R. 1960 S.C. 866, State of Haryana Vs. Bhajan Lal, 1992 SCC (Cr.) 426, State of Bihar Vs. P.P.Sharma, 1992 SCC (Cr.) 192 and lastly Zandu Pharmaceutical Works Ltd. Vs. Mohd. Saraful Haq and another (Para-10) 2005 SCC (Cr.) 283**. The disputed defence of the accused cannot be considered at this stage.

7. Considering the facts and circumstances of the case, I do not find any ground to quash the aforementioned case, therefore, the prayer for quashing the same is hereby refused.

8. Accordingly, the application is **dismissed**.

(Chawan Prakash,J.)

March 25, 2026/Md Faisal