

Court No. - 67

Case :- APPLICATION U/S 482 No. - 9901 of 2023

Applicant :- And Another

Opposite Party :- State Of U.P. Thr.Its Sec. Home U.P. And 3 Others

Counsel for Applicant :- Laloo Yadav,Alind Kumar,Balwant Kumar Singh,Kiran Rani

Counsel for Opposite Party :- G.A.

Hon'ble Rahul Chaturvedi,J.

Heard learned counsel for the applicants as well as learned A.G.A.

Since, the present application is being filed through e-mode, hence, learned counsel for the applicant is directed to implead Mr. Ayodhya Prasad Vishwakarma as respondent no.5 through online mode within 48 hours.

By means of the present application, the prayer sought by the applicants is to quash the charge sheet dated 24.03.2019 in charge sheet No.18 of 2019 arising out of Case Crime No.0016 of 2019 under sections 363, 366 IPC and Section 7/8 of POCSO Act, Police station-Bijpur, District-Sonbhadra in Special S.T. no.23 of 2019 pending in the court of Additional District Judge/Special Judge, POCSO Act, Sonbhadra.

Contention raised by learned counsel for the applicants is that both the parties are now married and residing as happily married couple. Not only this, from this wedlock, they have given birth to a baby boy Master Shivansh on 16.09.2022. The only legal impediment is with regard to the age of the girl. The next contention is that on the date of her medical examination i.e. on 12.02.2019, her age is 17 years and on this basis, POCSO Act has been added in the array of sections. Learned counsel for the applicant has drawn the attention of the Court to the testimony of Sarita Kumar before Special S.T. No.23 of 2019.

This is the clear case of our society's dark face, where the families still feel shy to get their son or daughter to marry inter caste. In the instant case, the victim girl belongs to OBC community whereas the applicant boy belongs to SC community and out of sheer love and affection, they decided to marry at their teens. This wedlock blessed with a baby boy Shivansh having date of birth 16.09.2022. Despite of all these developments, the applicant is facing the futile

exercise of holding trial.

The court after hearing the parties, records its deepest anguish, whereby this social menace is so deep rooted that even after 75 years of independence, we are fighting the cases with his opponents on this score only. The opposite party no.2 is the father of the victim who lodged the FIR and still contesting the case against the applicant. He must have aware that her daughter is now mother of small baby and he ought to have, for the bright future of his girl, withdraw the case.

This is the greatest impediment in our society but the requirement of law is that when both the parties have agreed and now they are happily residing as husband and wife with their small kid, there cannot be any impediment in accepting this marriage in the light of the judgment of Hon'ble the Apex Court in the case of **Mafat Lal and Another Vs. State of Rajasthan** in Crl. Appeal no. 592 of 2022 decided on 28.03.2022. Learned counsel for the applicant has also relied upon the judgment of Hon'ble the Apex Court in the case of **Jatin Agrawal Vs. State of Telangana and another** in SLP (Criminal) No. 9568 of 2021 decided on 23-03-2022 and **Prashant Bhartiya Vs. The State of Delhi & Anr** in Special Leave to Appeal (crl.) No. 8909 of 2019, decided on 28-05-2019

Hence, _____, father of the girl is required to appear before this Court on 28.04.2023.

Put up this matter as fresh on 28.04.2023.

Till then, further proceeding with regard to charge sheet dated 24.03.2019 in charge sheet No.18 of 2019 arising out of Case Crime No.0016 of 2019 under sections 363, 366 IPC and Section 7/8 of POCSO Act, Police station-Bijpur, District-Sonbhadra in Special S.T. no.23 of 2019 pending in the court of Additional District Judge/Special Judge, POCSO Act, Sonbhadra shall remain stayed.

Order Date :- 24.3.2023

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