

Court No. - 92

Case :- APPLICATION U/S 482 No. - 17109 of 2023

Applicant :- Sagar Savita

Opposite Party :- State Of U.P. And 2 Others

Counsel for Applicant :- Ajay Sengar

Counsel for Opposite Party :- G.A., Akshay Raj Singh, Satya Prakash Chaturvedi

Hon'ble Prashant Kumar,J.

1. Heard Ms. Gunjan Yadav, learned counsel for applicant, Shri Shashidhar Pandey, learned A.G.A. for the State-respondent no.1 and perused the record.

2. The instant application u/s 482 Cr.P.C. has been filed seeking quashing the entire proceedings of Criminal Case No. 2700131 of 2022 (State of U.P. Vs. Sagar Savita), arising out of case crime no.0041 of 2022, Under Sections 363, 366 I.P.C., and 7/8 of POCSO Act, P.S. Nadigoan, district Jalaun, pending before the learned Additional Sessions Judge/Special Judge (POCSO Act), Jalaun at Orai.

3. Learned counsel for the applicant submits that the applicant has married with the opposite party no.3 and are living together. The father of the opposite party no.3 who was not happy with the marriage has filed an F.I.R. After investigation charge-sheet has been filed and summon has been issued.

4. Learned A.G.A. for the State and opposite party no. 3 do not dispute the aforesaid facts. Counsel for the opposite party no.3 submits that they are married and living happily and the entire case was filed by the father as he was not happy with the current marriage.

5. This is a clear case of the dark face of our society. Even today, when children who marry on their own their parents under their family and societies pressure do not approve the marriage and go to the extent of filing F.I.R. against the boy.

6. The court after hearing the parties, records its deepest anguish, whereby this social menace is deep rooted that even after 75 years of independence we are

fighting the cases with his opponents on this score only.

7. 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 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.***

8. The Apex Court in ***Shafin Jahan v. Asokan K.M (2018) 16 SCC 368***, decided on April 9, 2018, held as under:

"74. The principles which underlie the exercise of the jurisdiction of a court in a habeas corpus petition have been reiterated in several decisions of the Court. In Gian Devi v Superintendent, Nari Niketan, Delhi³¹, a three-judge Bench observed that where an individual is over eighteen years of age, no fetters could be placed on her choice on where to reside or about the person with whom she could stay:"7. Whatever may be the date of birth of the petitioner, the fact remains that she is at present more than 18 years of age. As the petitioner is sui juris no fetters can be placed upon her choice of the person with whom she is to stay, nor can any restriction be imposed regarding the place where she should stay. The court or the relatives of the petitioner can also not substitute their opinion or preference for that of the petitioner in such a matter." (emphasis supplied)

9. A perusal of the aforesaid judgment of the Apex Court manifests that the Apex Court has consistently respected the liberty of an individual who has attained the age of majority.

10. In view of the aforesaid facts, since the the applicant and the opposite party no.3 are living together happily as husband and wife, no useful purpose would be served in prosecuting the applicant, the present Application U/S 482 Cr.P.C.is liable to be allowed.

11. Accordingly, the present Application U/S 482 Cr.P.C. is **allowed** and the proceeding of Criminal Case No. 2700131 of 2022 (State of U.P. Vs. Sagar Savita), arising out of case crime no.0041 of 2022, Under Sections 363, 366 I.P.C., and 7/8

of POCSO Act, P.S. Nadigoan, district Jalaun, pending before the learned Additional Sessions Judge/Special Judge (POCSO Act), Jalaun at Orai are hereby **set aside.**

Order Date :- 30.1.2024/pks