

Smt. Saida and Others Vs. State of U.P. and Another

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Court : Allahabad

Decided On : Jan-03-2013

Judge : Sunil Hali

Appeal No. : Application No. 44001 of 2012

Appellant : Smt. Saida and Others

Respondent : State of U.P. and Another

Judgement :

Heard the learned counsel for the applicants and the learned A.G.A.

This application has been filed with a prayer to quash the proceedings of case No. 6188 of 2012, under Sections 498-A, 323, 504, 506 IPC and Section 3/4 D.P. Act, P.S. Mahila Thana, District Muzaffar Nagar, pending in the Court of CJM, Muzaffar Nagar.

It is contended by the learned counsel for the applicants that the allegation made against the applicants are false and frivolous, which has been made for the purpose of harassment, therefore, the proceedings pending against the applicants may be quashed.

In reply to the above it is submitted by the learned A.G.A. that the court concerned has taken cognizance after considering the entire material on record and the only remedy available to the applicant is by way of moving an application for discharge

before the concerned Court. All the submissions made at the bar relate to the disputed questions of fact, which cannot be adjudicated upon by this Court under Section 482 Cr.P.C. The defence of the accused cannot be considered at this stage. It is further submitted that applicants have statutory right to appear before the court below and to argue on the discharge application.

In view of above, application is dismissed. The applicants will appear before the Trial Court through a proper application for the said purpose within fifteen days from today and they are free to take all the submissions in the said discharge application before the Trial Court which shall be considered and disposed of by the Trial Court in accordance with law within a period of two months. However, it is provided that till the application for discharge is decided no coercive steps shall be taken against other accused persons except the husband. This direction is issued with a view that involvement of other relatives of the husband is required to be adjudged by the Magistrate at the time of framing of the charge. Invariably, it has been seen that there has been always an effort made by the wife to rope in all the relatives of the husband. Since the court has very limited power to examine the veracity of the complaint in so far as their involvement is concerned some protection is required to be given to these persons before the charge is framed.

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