

HIGH COURT OF UTTARAKHAND
AT NAINITAL

C482 Application No. 2061 of 2022

Manoj Kumar

... Applicant

Vs.

State of Uttarakhand through Secretary
Home Secretariat Dehradun and others

....Respondents

Advocate: Mr. R.P. Singh, Advocate, for the applicant
Mr. V.K. Jemini, Deputy Advocate General, for the State.
Mr. Sushil Kumar, Advocate, holding brief of Mr. Prakash
Chandra, Advocate, for respondent No. 2

Hon'ble Sharad Kumar Sharma, J.

The dispute emerges as a consequence of registration of the FIR by respondent No. 2, the brother of the victim i.e. respondent No. 3 herein, being FIR No. 144 dated 19.02.2020, as against the present applicant for his alleged involvement in commission of offence under Section 363 and 366A of IPC. The allegation leveled in the aforesaid FIR was that the applicant was instrumental in eloping with his sister, the respondent No. 3 herein, and it was contended that at the time when the offence was committed, respondent No. 3 was minor, but though at that point of time, no offence under the POCSO Act, was referred to in the FIR. The matter was investigated and upon investigation, a Chargesheet, being Chargesheet No. 1 dated 12.05.2020 was submitted by the Investigating Officer, who has introduced the offence under Section 376 of IPC and Section 3/4 of POCSO Act.

2. As a consequence thereto, the proceedings of Special Sessions Trial No. 65 of 2020, State Vs. Manoj Kumar, stood registered before the Court of Additional District and

Sessions Judge, Haridwar, on which the present applicant had been summoned by an order dated 20.07.2020.

3. The entire proceedings of the aforesaid Special Sessions Trial, had been put to challenge on the ground, that the applicant and respondent No. 3 were in friendly relationship for a quite sufficient long time and owing to it, they were married before the R.S. Sadan, being a society registered under the Societies Registration Act, where a certificate of registration of marriage was issued in their favour, being MR No. 5/128/20 dated 18.02.2020, wherein it was shown that both the parties have voluntarily married on 18.02.2020. Even, according to the statement recorded by the victim respondent No. 3, she has stated that she has voluntarily gone along with the present applicant and later on they got married and a certificate of registration of marriage has been issued in their favour i.e. applicant and respondent No. 3, as issued by the Registrar of Marriages, as constituted under the U.P. Marriage Registration Rules of 2017 and a certificate in that regard has been issued, which has been registered on 12.09.2022 at Sl. No. 9503 at S.R.O. Office, Sadar 5, Ghaziabad.

4. Owing to the fact, that now the parties are married, they have filed a Compounding Application, contending thereof that the victim i.e. the respondent No. 3, since has attained majority and has married, she doesn't intend to prosecute the present applicant (now her husband), any further.

5. The Compounding Application thus submitted, has not been endorsed by the complainant respondent No. 2, the

brother of respondent No. 3, who is still in opposition to the marriage of the applicant with respondent No. 3.

6. As far as considering of the Compounding Application is concerned, the complainant at that point of time when he had registered the FIR, it was exclusively because of the emotional relationship which he carried with his sister, had registered the FIR, but owing to the change circumstances, where the respondent No. 3 has stated that she has voluntarily married the applicant and even after putting in appearance before this Court, she has recorded the statement in the presence of her counsel. She has contended that she is happily living and discharging her matrimonial obligations with the present applicant, as such, she contends that carrying out the proceedings of Special Sessions Trial No. 65 of 2020, State Vs. Manoj Kumar, would be nothing, but an act of futility, because there are very bleak chances of conviction, because there may be probable hostility on part of the victim respondent No. 3.

7. The Compounding Application is being opposed by the learned Government Advocate on the ground, that the offences for which the composition is being sought, are not compounded. They are heinous in nature and against the society. The contention, as expressed by the learned Government Advocate, cannot be ruled out; but, then looking to the change circumstances, where the victim has stated that she has married with the applicant and she is residing with him, no fruitful purpose would be served to proceed with the proceedings of Special Sessions Trial No. 65 of 2020, State Vs. Manoj Kumar, pending consideration

before the Court of Additional District and Sessions Judge, Haridwar.

8. Exclusively, owing to the fact, that they admit the fact of marriage, coupled with the fact that their marriage stands fortified by the certificate of registration of marriage, which has been issued in their favour by the competent Registrar of District Ghaziabad, owing to the statement recorded by the victim, that she is having no grievance as against the present applicant, merely because of the fact that respondent No. 2 is in opposition to the marriage, cannot be taken as to be an exclusive ground to not to consider the compounding application, because otherwise it will amount to unnecessarily forcing upon the litigation upon the two parties to a matrimony, who are now living together.

9. Owing to the aforesaid, the proceedings of Special Sessions Trial No. 65 of 2020, State Vs. Manoj Kumar, would hereby stand quashed.

10. However, quashing of this proceeding would be with a word of caution to the present applicant, that he undertakes that, in future, he would be honourously discharging his matrimonial obligations towards respondent No. 3 and he would provide all safety and security to her in future.

11. Subject to the aforesaid, the C482 Application would stand disposed of.

(Sharad Kumar Sharma, J.)

31.10.2023