

Court No. - 76

Case :- APPLICATION U/S 482 No. - 28863 of 2024

Applicant :- [REDACTED]

Opposite Party :- State of U.P. and Another

Counsel for Applicant :- Pramod Kumar Mishra, Suneel Kumar Mishra

Counsel for Opposite Party :- G.A.

Hon'ble Vinod Diwakar, J.

1. Heard learned counsel for the applicant, and learned A.G.A for the State.

2. The instant application under Section 482 Cr.P.C. has been filed for quashing the charge sheet dated 26.09.2022 alongwith cognizance order dated 30.09.2022 as well as entire proceedings of Case No. 953 of 2022 titled State v. [REDACTED], arising out of Case Crime No. 62 of 2022, under Section 67 of Information Technology (Amendment) Act, registered at P.S. Padari, District Mirzapur.

3. Learned counsel for the applicant states that the applicant is the legally wedded husband of the complainant and, therefore, no offence under Section 67 of the I.T. Act has been made out qua applicant. He submits that there are fair chances of compromise between the husband and wife. There is no material on record which could suggest that the applicant has made an obscene video of his wife and uploaded it on the internet. The ingredients of Section 67 of the I.T. Act are not made out on plain reading of the FIR and case diary, recorded during investigation. It is a case of no evidence.

4. *Per contra*, learned A.G.A., submits that there are serious

allegations against the applicant that the applicant-husband has clandestinely, without the complainant's knowledge and consent, made an obscene video of an intimate act performed between husband and wife from his mobile, firstly uploaded on Facebook and thereafter shared with the cousin of his wife and other co-villagers. He further states that even though the complainant is the legally wedded wife of the applicant, the applicant has no right to make an obscene video of her and circulate it to the cousin and other co-villagers.

5. Upon perusal of the record and after hearing the learned counsel for the parties, it's *prima facie* observed that the marriage does not grant a husband ownership or control over his wife, nor does it dilute her autonomy or right to privacy. By uploading an intimate video on Facebook, the applicant has gravely breached the sanctity of the marital relationship. A husband is expected to honour the trust, faith, and confidence reposed in him by his wife, particularly in the context of their intimate relationship. The act of sharing such content amounts to a violation of the inherent confidentiality that defines the bond between husband and wife. This breach of trust undermines the very foundation of the marital relationship and is not protected by the marital bond. A wife is not an extension of her husband but an individual with her own rights, desires, and agency. Respecting her bodily autonomy and privacy is not just a legal obligation but a moral imperative in fostering a truly equal relationship.

6. So far as other submissions raised by the counsel for the applicant are concerned, the same call for determination on questions of fact which may be adequately adjudicated upon only by the trial court. Adjudication of questions of facts and

appreciation of evidence or examining the reliability and credibility of the version does not fall within the arena of jurisdiction under Section 482 Cr.P.C. In view of the material on record, it can also not be held that the impugned criminal proceedings are manifestly attended with *mala fide* and maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge. Similarly, no such illegality, perversity or any other substantial error could be pointed out in the impugned summoning order so as to warrant any interference by this Court in the exercise of powers u/s 482 Cr.P.C.

7. The application u/s 482 Cr.P.C. is devoid of merit, and it is accordingly **dismissed**.

Order Date :- 28.2.2025

Shafique

Justice Vinod Diwakar