

Court No. - 72

Case :- CRIMINAL REVISION No. - 203 of 2023

Revisionist :- Mohammad Aslam

Opposite Party :- State of U.P.

Counsel for Revisionist :- Upendra Kumar Singh

Counsel for Opposite Party :- G.A.,Lalit Kumar Misra

Hon'ble Krishan Pahal,J.

1. List has been revised.
2. Heard Sri Upendra Kumar Singh, learned counsel for the revisionist, Sri Lalit Kumar Misra, learned counsel for the opposite party nos. 2 to 5 and Sri R.K. Patel, learned AGA for the State.
3. By the instant criminal revision, the revisionist has challenged the order dated 21.12.2022 by which learned Additional Chief Judicial Magistrate, Court No. 1 Bareilly, after rejecting the Closure Report No. 394 of 2019, allowed the protest petition and treated the case as a complaint case.
4. Learned counsel for the revisionist has stated that the revisionist is the informant in the case and had sustained grievous injuries. In the opinion of the doctor, who had prepared the supplementary injury report on 29.05.2019, there are two grievous injuries sustained by the injured person. Learned counsel has further stated that the closure report was illegal and the said order dated 21.12.2022 is without application of mind and cryptic in nature. He has further stated that the Investigating Officer has filed the closure report in collusion with the accused persons i.e. opposite party nos. 2 to 5. The case falls within the criteria of Section 307 I.P.C. as such the Magistrate ought to have committed the case to the court of session or sent for further investigation. Learned counsel for the revisionist has stated that the Magistrate has not taken into consideration the injury report at all, as such, the impugned order is liable to be set aside.
5. Per contra, learned counsel for opposite party nos. 2 to 5 has stated that the opposite party nos. 2 to 5 have been falsely summoned by the Magistrate concerned while taking cognizance and treating the case as complaint case. He has further stated that the Magistrate concerned has ample powers under Section 202(1)

Cr.P.C. to give order for investigation in the matter, if he finds so. Learned counsel has further stated that if during inquiry, at any stage, before passing of judgement, the learned Magistrate finds, the case to be triable by the court of Session, he may commit the case by invoking the power under Section 323 Cr.P.C., as such the instant revision is liable to be dismissed.

6. After hearing the learned counsel for the parties and taking into consideration the rival submissions and facts raised at Bar regarding the provisions of Sections 202(1) Cr.P.C. and 323 Cr.P.C., I do not find it a fit case for interference in the present case.

7. The instant revision being devoid of merits and is accordingly, **dismissed.**

Order Date :- 29.11.2023

Manoj