

Court No. - 92

Case :- APPLICATION U/S 482 No. - 4313 of 2006

Applicant :- Shri Niwash Rai And Others

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

Counsel for Applicant :- Shailendra Sharma

Counsel for Opposite Party :- Govt. Advocate

Hon'ble Anish Kumar Gupta,J.

1. Heard Sri Sanjay Kumar, Advocate holding brief of Sri Shailendra Sharma, learned counsel for the applicants and Sri Pankaj Srivastava, learned A.G.A. for the State.

2. The instant application under Section 482 Cr.P.C. has been filed seeking quashing of charge sheet as well as further proceedings of Case No.3361 of 2005, arising out of Case Crime No.285 of 2003, under Sections 406, 409, 419, 420, 467, 468, 471, 120-B I.P.C., P.S. - Ghosi, District - Mau, pending in the Court of Chief Judicial Magistrate, Mau.

3. Learned counsel for the applicants submits that during pendency of the instant application two of the applicants, namely, Shri Niwash Rai - applicant no.1 and Omkar Nath Gupta - applicant no.2 had died, therefore, the proceedings against them have been abated, as of now he is arguing only for applicant nos.3 and 4 in the instant application.

4. Learned counsel for the applicants submits that applicant nos.3 and 4 are the Fair Price Shop owners of concerned village, Hetaye and Ahirane. He further submits that there was a scheme regarding flood relief for which food grains were provided for distributing the same to the labourers, who worked during various projects. The *modus operandi* for distribution of the said foodgrains was that there were three coupons which were issued by the Junior Engineer concerned. One copy of such coupon was to be given to the Fair Price Shop owner and the second copy was given by the concerned Junior Engineer to the concerned labourers and the third copy was given to the concerned Junior Engineer. When such labourer comes to the Fair Price Shop owner with the coupon issued by the concerned Junior Engineer, he after tallying the same with the coupon available with the Fair Price Shop owner used to distribute the foodgrains to the concerned labourers. In such view

of the matter, learned counsel for the applicants submits that the concerned labourers who had come to fair price shop of the applicants herein, the foodgrains was distributed to them after tallying their coupon. There is no allegation of any of the labourers that such foodgrains has not been provided by the Fair Price Shop owners to the labourers who came with the coupon issued by the Junior Engineer.

5. Learned counsel for the applicants has further submitted that as a Fair Price Shop owner the role of applicants was not beyond the distribution of the foodgrains which were allotted to them. So far as the allegations as made in the F.I.R. with regard to the work not found at the particular sites in accordance with the expenditure made with the said allegation, the applicants have no concern at all because they were not responsible for execution of work to be done by the particular labourers at the particular sites, which are supervised by the concerned Junior Engineer and other superior officers. Learned counsel for the applicants relying upon the enquiry report which has been submitted by the Chief Development Officer, Mau on 10.05.2003, submits that from the aforesaid report it is crystal clear that the work under the said relief scheme was being done in accordance with the rules and there was no complaint from any corner. Subsequently, the instant F.I.R. has been lodged, allegedly as per the instructions of the concerned Junior Engineer ignoring said report dated 10.05.2003 and obtaining another report from the S.D.M., Ghosi dated 10.06.2003 in a hurried manner wherein it has been alleged that on the verification and spot inspection, the work has not been done as per the expenditure and the coupon and register for distribution has been prepared by the forging and fabricating the documents and the amount of Rs.15,01,187/- has been misappropriated by the accused persons, which included the accused, Arvind Rai, Engineer, District Panchayat, Mau, Rakesh Kumar Rai, Junior Engineer, District Panchayat, Mau and Anil Kumar Srivastava, Junior Engineer, District Panchayat, Mau and the applicants herein and this report has been lodged. In the enquiry even by the said S.D.M., opposite party no.2 herein there is no allegation that any of the labourers, who came with the coupon issued by the Junior Engineer has been denied the issuance of foodgrains by the applicants.

6. Learned counsel for the applicants further submits that so far as the proceedings against other accused persons, namely, Arvind Kumar Rai, Engineer District Panchayat, Mau, Rakesh Kumar Rai, Junior Engineer, District Panchayat, Mau, are concerned, the

proceedings have already been quashed by this Court vide order dated 15.12.2010 passed in Criminal Misc. Application No.18770 of 2005 (Arvind Kumar Rai Vs. State of U.P. and another) and the order dated 20.12.2017 passed by this Court in Application U/S 482 No.564 of 2006 (Rakesh Kumar Rai (Wrongly shown in Charge Sheet as Rajesh) Vs. State of U.P. and another). Since, the persons, who were responsible for the work done at the particular sites under the flood relief scheme, they have already been exonerated by this Court and the applicants have no concern with the work done, they were only assigned the duty to distribute the foodgrains to the concerned labourers and there is no complaint about any default in distribution of the foodgrains to the labourers, who came with the coupon issued by the Junior Engineer. In view thereof, learned counsel for the applicants seeks quashing the entire proceedings of the instant case.

7. Learned A.G.A. for the State does not dispute the averments made by learned counsel for the applicants and there is no specific allegation against the applicants herein with regard to any default on their part with regard to the distribution of the foodgrains to the concerned labourers, who came with the coupon to the applicants herein.

8. Having regard to the aforesaid facts and circumstances of the case and the submissions made by learned counsel for the applicants, which has not been disputed by the learned A.G.A. for the State and from the F.I.R. itself there is no specific allegation against the applicants herein with regard to any default on the part of the applicants in distribution of the foodgrains to the concerned beneficiaries under the Flood Relief Scheme. So far as the deficiency in work done on the particular sites is concerned, the applicants have no role to play. Therefore, the instant application deserves to be allowed and is hereby **allowed**. The entire proceedings of aforesaid Case No.3361 of 2005, arising out of Case Crime No.285 of 2003, under Sections 406, 409, 419, 420, 467, 468, 471, 120-B I.P.C., P.S. - Ghosi, District - Mau, pending in the Court of Chief Judicial Magistrate, Mau, are hereby **quashed**.

Order Date :- 12.12.2023

Atul