

Court No. - 92

Case :- APPLICATION U/S 482 No. - 11296 of 2011

Applicant :- Rajesh Kumar Sharma

Opposite Party :- State Of U.P.And Others

Counsel for Applicant :- Vikrant Rana

Counsel for Opposite Party :- Govt.Advocate

Hon'ble Anish Kumar Gupta,J.

1. Heard Sri Chandra Veer Singh holding brief of Sri Vikrant Rana, learned counsel for the applicant and Sri Sandeep Chaudhary, learned AGA for the State.

2. The instant application has been filed challenging the order dated 22.02.2011 passed by the Additional District and Sessions Judge, Court No. 4, Meerut in Sessions Trial No. 146 of 2008 (State vs. Kamlesh Gaur and others) whereby the application under Section 311 CrPC filed by the prosecution for summoning and re-examine the PW2 i.e. Shri Ravi, was rejected.

3. From the perusal of order dated 22.02.2011, it is apparent that PW2 was examined on 02.09.2008 and subsequently all other witnesses were also examined and PW 2 and all other witnesses were not supported the prosecution story and have been declared hostile.

4. This application was filed stating that the statement of PW2 was recorded under person. However, the said application was filed after a period of two years, therefore, by that time all other witnesses were also examined and none of the witnesses have supported the prosecution story. The allegations made in the FIR are that the accused persons came in a motorcycle, called the complainant from his house, when he came, the accused persons fired from the revolver, which was missed and the complainant did not suffer any injury. The allegations further says that the other persons gathered at the place of incidence and had heard the noise of fire. However, none of the independent witnesses have supported the incident and none of the witnesses have heard any sound of fire etc. Therefore, the statement of PW2 was also recorded, who was also declared hostile and after the period of two years, application under Section 311 CrPC for summoning and re-examination of PW2 was filed, which was rejected.

5. This court has carefully perused the impugned order dated 22.02.2011 and find that there is no illegality in the impugned order, the application is devoid of merits and it is, accordingly, dismissed.

Order Date :- 26.10.2023

Priya