

Court No. - 91

Case :- APPLICATION U/S 482 No. - 10501 of 2021

Applicant :- Chandrika Prashad

Opposite Party :- State Of U.P. And 4 Others

Counsel for Applicant :- Phool Singh Yadav

Counsel for Opposite Party :- G.A.,Manish Kumar,Ram Chandra Yadav,Sanatan Kumar

Hon'ble Gajendra Kumar,J.

Heard learned counsel for the applicant, learned counsel for opposite party no.2 as well as learned A.G.A. for the State and perused the record.

This application under Section 482 Cr.P.C. has been filed by the applicants with the prayer to quash the order dated 16.03.2021, passed in Criminal Misc. Case No. 1910 (Chandrika Prasad vs. Kamal Kishore and others), under Section 156 (3) Cr.P.C., Police Station Gazipur, District Fatehpur, rejecting the application of the applicant under Section 156 (3) Cr.P.C. for registration of the crime against opposite party nos. 2 to 5.

Submission of learned counsel for the applicant is that the applicant moved an application under Section 156 (3) Cr.P.C. before the Chief Judicial Magistrate, Fatehpur, with regard to murder of his daughter Ankita Gupta with the specific allegation against opposite party nos. 2 to 5, which has been rejected by the Chief Judicial Magistrate, Fatehpur by impugned order dated 16.03.2021.

Main submission of learned counsel for the applicant is that the learned Chief Judicial Magistrate, Fatehpur, has passed the order in mechanical manner, on the basis of report, which was submitted by the police concerned to the effect that there is murder pertaining to love affair. The first informant Chandrika Prasad has filed the application under Section 156 (3) Cr.P.C. with concocted story and deliberately delayed.

It is further submitted that the learned Magistrate has not applied his judicial mind in recording the satisfaction and there cognizable offence of murder is made out. As such, the entire criminal proceeding against the applicants may be quashed.

Per contra, learned AGA opposed the prayer of the applicant but cannot dispute the aforesaid fact.

Considering the aforesaid facts and circumstances of the present case, submissions made by counsel for parties and upon the

perusal of material on record, it is apparent that the order has been passed by the Chief Judicial Magistrate Fatehpur, mainly on the ground of police report. The report of the police was also required for disposal of the application under Section 156 (3) Cr.P.C. and the learned Magistrate has not recorded the satisfaction as to whether the cognizable offence is made out or not .

Looking to the facts and circumstances of the case and without going into the merits of the case as of now, the order dated 16.03.2021 is hereby set-aside.

The present application u/s 482 Cr.P.C. is allowed to this extent.

The matter is remanded back to the trial court concerned to pass fresh order in accordance with law within a period of four weeks from the date of production of a certified copy of this order.

Order Date :- 1.11.2023

v.k.updh.