

Court No. - 92

Case :- APPLICATION U/S 482 No. - 21480 of 2023

Applicant :- Ravindra Kumar Alias Balak Mali And 5 Others

Opposite Party :- State Of U.P. And 2 Others

Counsel for Applicant :- Namit Srivastava, Sarthak Verma

Counsel for Opposite Party :- G.A.

Hon'ble Anish Kumar Gupta, J.

1. Heard Sri Sarthak Verma, learned counsel for the applicants and Sri Kamlesh Kumar Tripathi, learned AGA appearing for the State.

2. The instant application under Section 482 Cr.P.C. has been filed seeking quashing of the summoning order dated 23.11.2021 as well as the entire proceedings of Case No. 776 of 2021 (State vs. Ravindra Kumar @ Balak Mali and othes), under SEctions 498_A, 323, 504 and 308 IPC, P.S. Madihan, District Mirzapur, pending before the Civil Judge (J.D.) Fast Track Court, District Mirzapur.

3. Learned counsel for the applicants submits that the applicant no.6 herein has lodged an FIR against the opposite party no.2 and two other persons with regard to the incident dated 01.06.2020 around 09:00 A.M., when it is alleged that the opposite party no.2, has called his father and the other persons who have assaulted all the applicants herein. Further, it is submitted by learned counsel for the applicants that applicants no.1, 2, 3 and have sustained various injuries during such incident. In the said FIR lodged by the applicant no.6 after due investigation and the medical examination, the charge sheet was filed by the Investigating Officer on 28.06.2020 and subsequent to the charge sheet filed on the FIR lodged by the applicant no.6 against the opposite party nos. 2 and 3, the opposite party no.2 has moved an application under Section 156(3) Cr.P.C. against the applicants herein on 06.08.2020, on which the instant FIR was registered on 23.08.2021.

4. Learned counsel for the applicants submits that the application under Section 156(3) Cr.P.C. alleging the incident of same date and time i.e. on 01.06.2020 of assault by the applicants on the opposite party nos. 2, 3 and other persons. Therefore, learned counsel for the applicants submits that subsequent FIR lodged by the opposite party no.2 against the applicants herein is nothing but a counter blast case registered by them with malafide intention. Therefore, the subsequent FIR is nothing but malicious prosecution by the opposite party nos.

2 and 3 against the applicants. Therefore, the applicants have prayed for quashing of the entire proceedings of the said case.

5. Per contra, the learned AGA submits that the applicant no.1 is the husband of opposite party no.3 and there was continuous torture for demand of dowry by the applicants from the opposite party no.3 and the applicants had badly assaulted the opposite party no.3 on 31.05.2023, which was informed by the opposite party no.3 to her father, thereupon the opposite party no.2 along with other persons came there for conciliation, to negotiate and enquire what was the actual issue between the parties. Then applicants have assaulted and from the reading both the FIRs, it appears that there is assault on the part of both sides. Therefore, which version of the two FIRs is true cannot be determined while exercising the jurisdiction under Section 482 Cr.P.C.

6. Learned counsel for the State submits that the opposite party no.2 and 3 have already explained in their FIR that immediately after the incident since they were the residents of Jaunpur, they have made complaint to the concerned Superintendent of Police, Mirzapur on 03.06.2020 by registered post. However, due to the undue pressure created by the applicants herein, the FIR could not be registered. Therefore, they had approached the learned Magistrate to register the FIR under Section 156(3) Cr.P.C. The delay in filing the 156(3) Cr.P.C. has already been explained. Learned counsel for the State further submits that there is no ground for interference in the instant case by this Court.

7. Having heard the rival submission made by learned counsel for the parties, this Court has carefully gone through the record of the case. From the record of the case, it is apparent that both the parties are alleging both the incidents of 31.05.2020 and 01.06.2020. On 31.05.2020, the opposite party no. 3 was in her matrimonial house along with the applicants, who had assaulted the opposite party no.3. Thereupon, she had informed her father and on the next day i.e. 01.06.2020, the father along with other persons came there and there were some negotiations and altercation between the parties which has resulted in serious scuffle wherein both the parties have sustained injuries. The delay in filing the 156(3) Cr.P.C. application has already been explained by the opposite party nos. 2 and 3, therefore, it cannot be said that no offence is made out against the applicants.

8. In the considered view of this Court, the instant application under Section 482 Cr.P.C. lacks merits and is hereby **dismissed**.

Order Date :- 9.11.2023
Ashish Pd.