

Court No. - 90

Case :- APPLICATION U/S 482 No. - 21938 of 2023

Applicant :- Manvir Singh

Opposite Party :- State of U.P.

Counsel for Applicant :- Pankaj Kumar Tiwari

Counsel for Opposite Party :- G.A.

Hon'ble Dinesh Pathak,J.

1. At the very outset, learned counsel for the applicant has prayed for and is permitted to implead Indrajeet S/o Som Prakash, first informant of FIR No. 0589 of 2020 as Opposite Party No. 2 in the cause title of the instant application, during the course of the day.

2. Heard learned counsel for the applicant, learned AGA and perused the record.

3. The present applicant has invoked the inherent power of this Court under Section 482 CrPC beseeching the quashing of order dated 28.4.2023 passed by In-charge Officer, Additional Session Judge (FTC) Court No. 4, Bulandshahar in ST No. 1180 of 2021 (State Vs. Manvir) under Section 216 CrPC arising out of Case Crime No. 589 of 2020, under Sections 323, 504, 506, 452, 308 IPC, Police Station Jahangirabad, District Bulandshahar.

4. Opposite Party No. 2 has lodged an FIR levelling allegation of house trespass and attempt to culpable homicide against the present applicant showing the date of occurrence dated 27.11.2020. Having considered the charge sheet submitted by the Investigating Officer, the trial court has framed as many as five charges against the present applicant, vide order dated 11.10.2021. Charge No. 5 has been framed under Section 308/34 IPC. Having been aggrieved with the Charge No. 5, under Section 308/34 IPC, the present accused-applicant has moved an application dated 13.9.2022 (paper No. 15B) under Section 216 CrPC to alter the charge on the ground that no grievous hurt has been inflicted upon alleged victim by the applicant which could be treated/converted as an attempt to culpable homicide. The trial court, vide order dated 28.4.2023, has rejected the said application (paper No. 15B) which is under challenge before this Court.

5. The applicant has tried to assail the genuineness of the medical

report dated February 10/11, 2021 allegedly issued by Dr. Jitin of AIIMS Hospital, New Delhi. The applicant has assailed the alleged statement of Dr. Jitin as well recorded under Section 161 CrPC before the Investigating Officer.

6. Having considered the submissions as raised by the learned counsel for the applicant, learned AGA and perusal of record, it is manifested that learned trial court has framed the charges on the basis of material available on record. Medical report and the statement of the doctor were part of case diary which have appropriately been considered by the trial court for the purpose of framing charges under Section 308/34 IPC. The defense, as is being raised on behalf of the present applicant questioning the genuineness of the medical/injury report dated February 10/11, 2021 and the statement of Dr. Jitin recorded under Section 161 CrPC before the Investigating Officer, is a matter of trial which can be adjudicated upon more appropriately by the trial court after appraising the evidence on record. At this juncture, this Court is not expected to conduct a mini trial to examine the genuineness of these documents as well as the innocence of the applicant in the commission of alleged crime as is being requested by the learned counsel for the applicant, in exercise of inherent jurisdiction of this Court under Section 482 CrPC. Prima facie, this Court did not find any abuse of the process of law or any justifiable ground to pass an order to secure the ends of justice or to enquire into the correctness of the order impugned passed by the trial court while rejecting the application No. 15B filed under Section 216 CrPC.

7. There is no illegality, infirmity, perversity or irregularity in the order under challenge warranting the indulgence of this Court under Section 482 CrPC. Accordingly, the present application under Section 482 CrPC, being misconceived and devoid on merits, is hereby **dismissed**.

Order Date :- 16.10.2023

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