

Court No. - 90

Case :- APPLICATION U/S 482 No. - 22644 of 2023

Applicant :- Mohd. Haroon

Opposite Party :- State Of U.P. And 6 Others

Counsel for Applicant :- Dharendra Pratap Singh

Counsel for Opposite Party :- G.A.

Hon'ble Dinesh Pathak,J.

1. Heard learned counsel for the applicant, learned AGA and perused the record on board.

2. The present applicant has invoked the inherent jurisdiction of this Court under Section 482 CrPC beseeching the quashing of the impugned judgement and order dated 29.05.2023 passed by learned Additional Sessions Judge, Court No.6, Gorakhpur in Criminal Revision No.42 of 2023 (Sabir Ali vs. Sate of U.P. and another) by which revisionl court has quashed the order dated 13.10.2021 passed by learned Additional Civil Judge (S.D.) Gorakhpur in Compliant Case No.16168/2021 (Mohd. Harun vs. Sabir Ali), under Sections 147, 323, 504, 506, 379, 452, 427 I.P.C., Police Station Chiluataal, District Gorakhpur.

3. Present applicant has assailed the remand order dated 29.05.2023 passed by Additional Sessions Judge, Court No.6, Gorakhpur in Criminal Revision No.42 of 2023, quashing the summoning order dated 31.10.2021 passed by Additional Civil Judge (Senior Division-II)/A.C.J.M., Gorakhpur in Complaint Case No.16168 of 2021. Complainant (applicant herein) has moved complaint dated 15.03.2021 levelling allegation of harassment against his wife and her family members, having been aggrieved with the incident dated 22.02.2021 wherein he has been beaten up and abused by his wife and her family members. Having considered the contents of the complaint and the statement of complainant under Section 200 Cr.P.C. as well as statement of witnesses under Section 202 Cr.P.C., learned Magistrate has issued process under Sections 147, 323, 504, 506, 379, 452, 427 I.P.C. against accused persons (opposite party nos.2 to 7) vide order impugned dated 13.10.2021. Having been aggrieved with the summoning order dated 13.10.2021, private opposite parties have preferred revision being Revision No.42 of 2023. Learned Additional Sessions Judge, Court No.6, Gorakhpur, after careful

consideration of the record and impugned summoning order passed by learned Magistrate, has partly allowed the revision and relegated the parties before the Magistrate concerned to get the matter decided afresh in the light of the observation made by revisional court.

4. Learned counsel for the applicant has advanced solitary submission with respect to the opportunity of hearing that revisional court has decided the matter ex-parte without affording opportunity of hearing to the complainant.

5. Having considered the submission advanced by learned counsel for the applicant and the perusal of record, I do not find any justifiable ground to interfere in the order impugned dated 29.05.2023, in exercise of inherent jurisdiction of this Court under Section 482 Cr.P.C. Perusal of order impugned dated 29.05.2023 reveals that despite repeated call, no one appeared on behalf of the private opposite party no.2 in the revision. In the light of the observation made by the learned revisional court, it cannot be said that opportunity was not afforded to the present applicant, who was deliberately absent on the date of hearing. Neither there is any abuse of process of court nor any justifiable ground to pass an order to secure the ends of justice. Learned Magistrate shall consider the merits of the complaint denovo after giving opportunity of hearing to the parties concerned in the light of the order passed by the revisional court.

6. Resultantly, the instant application, being misconceived and devoid of merits, is dismissed with no order as to the cost.

Order Date :- 30.10.2023

Jitendra