

Court No. - 87

Case :- APPLICATION U/S 482 No. - 22794 of 2023

Applicant :- Ramesh Chandra

Opposite Party :- State of U.P. and Another

Counsel for Applicant :- Sanjay Kumar Dwivedi

Counsel for Opposite Party :- G.A., Santosh Kukmar Tiwari

Hon'ble Neeraj Tiwari, J.

1. Heard learned counsel for the applicant and learned AGA.
2. The present 482 Cr.P.C. application has been filed to set aside the dated 11.04.2023 in S.T. No. 561 of 2022 (State Vs. Ramesh Chandra and others), arising out of case crime no. 187/2012, under Sections 147, 148, 149, 294, 308, 323, 452, 504, 506 I.P.C., P.S. Shergarh, District Mathura pending before Additional Sessions Judge, Court No. 4, Mathura.
3. Learned counsel for the applicant submitted that after framing of charge vide order dated 27.03.2023, applicant has filed application under Section 216 Cr.P.C. for alteration of charge on the ground that certain document has not been properly considered. He next submitted that ignoring the said fact, discharge application has been rejected vide order dated 11.04.2023, therefore, order is bad and liable to be quashed.
4. Learned AGA pointed out that after hearing counsels for both the parties and considering all the material available on record, charges have been framed. After hearing counsels for both the parties, charges have been framed. He also pointed out that Apex Court in the case of ***State of Gujrat Vs. Dilipsinh Kishorsinh Rao; 2023 SCC Online SC 1294*** has held that while framing of charges, only matter produced by the police shall be considered and accordingly, charges shall be framed. Therefore, in light of judgment of Apex Court in the case of ***Dilipsinh Kishorsinh Rao (supra)***, there is no illegality in the impugned order.
5. I have considered the rival submissions made by learned counsel for the parties and perused the record. From the perusal of record as well as impugned order, it is absolutely clear that while framing of charges, both parties have been heard and charges are framed on the basis of evidence available on record.
6. I have also perused judgment of Apex Court in the matter of ***Dilipsinh Kishorsinh Rao(Supra)***. Relevant paragraphs of the said

judgment are being quoted hereinbelow:

" 8. At the time of framing of the charge and taking cognizance the accused has no right to produce any material and call upon the court to examine the same. No provision in the Code grants any right to the accused to file any material or document at the stage of framing of charge. The trial court has to apply its judicial mind to the facts of the case as may be necessary to determine whether a case has been made out by the prosecution for trial on the basis of charge-sheet material only.

11. The defence of the accused is not to be looked into at the stage when the accused seeks to be discharged. The expression "the record of the case" used in Section 227 Cr.P.C. is to be understood as the documents and articles, if any, produced by the prosecution. The Code does not give any right to the accused to produce any document at the stage of framing of the charge. The submission of the accused is to be confined to the material produced by the investigating agency.

12. The primary consideration at the stage of framing of charge is the test of existence of a prima-facie case, and at this stage, the probative value of materials on record need not be gone into. This Court by referring to its earlier decisions in the State of Maharashtra Vs. Som Nath Thapa (1996) 4 SCC 659 and the State of MP Vs. Mohan Lal Soni (2000) 6 SCC 338 has held the nature of evaluation to be made by the court at the stage of framing of the charge is to test the existence of prima-facie case. It is also held at the stage of framing of charge, the court has to form a presumptive opinion to the existence of factual ingredients constituting the offence alleged and it is not expected to go deep into probative value of the material on record and to check whether the material on record would certainly lead to conviction at the conclusion of trial."

7. Therefore, in light of the facts of this case as well as law laid down by the Apex Court in the matter of **Dilipsinh Kishorsinh Rao(Supra)**, no interference is required in the order dated 11.04.2023

8. Application lacks merit and is accordingly **dismissed**.

9. No order as to costs.

Order Date :- 13.10.2023

Arvind