

Court No. - 89

Case :- APPLICATION U/S 482 No. - 25364 of 2023

Applicant :- Satish Chandra Yadav @ Baddey Yadav And 2 Others

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

Counsel for Applicant :- Om Prakash Singh,Devendra Pandey,Siddharth Srivastava

Counsel for Opposite Party :- G.A.,Deeksha Gupta, Miss Diksha Gupta,Siddharth Srivastava

Hon'ble Deepak Verma,J.

1.Heard counsel for the applicant and Ms. Diksha Gupta, Advocate holding brief of Shri Siddharth Srivastava, counsel for the opposite party no. 2.

2. This application under Section 482 Cr.P.C has been filed for quashing the charge sheet no. 01 dated 26.07.2020, cognizance order dated 18.10.2020 and order dated 17.04.2023 as well as the entire proceeding of Case No. 3087 of 2020, arising out of Case Crime No. 67 of 2020 under SectionS 323, 504, 506, 325 of I.P.C Police Station Bilariyaganj, District Azamgarh pending before Chief Judicial Magistrate, Court No. 24, District Azamgarh.

3. Brief facts of the case is that on 26.07.2020 the investigating officer submitted charge-sheet. However, the Circle Officer/Supervisory Officer was not satisfied with the investigation and he directed the Investigation Officer to conduct a fresh investigation. Thereafter, the Investigating Officer has exonerated the present applicants and submitted a charge sheet against co-accused Satyaprakash Yadav only. Thereafter, cognizance order dated 18.10.2020 and order dated 17.4.2023 have been passed against the applicants under Section 323, 504, 506 and 325 I.P.C. summoning the applicants to face trial.

4. Counsel for the applicants submits that the cognizance order dated 18.10.2020 and order dated 17.4.2023 are abuse of process of the Court as the same is based on non-application of mind and the learned Magistrate has not applied his judicial mind, therefore, the cognizance order dated 18.10.2020 and order dated 17.4.2023 are liable to be set aside.

5. Per contra, learned A.G.A and counsel for opposite party no. 2 have opposed the submission raised by counsel for the applicants.

6. I have considered the rival submission of the counsels and find that learned Judicial Magistrate before taking cognizance has not considered the supplementary charge-sheet report, by which Investigating Officer has exonerated the applicants, whereas, supplementary charge sheet was filed in the court concerned before taking cognizance. Learned Magistrate should have gone through the report of supplementary charge sheet before taking cognizance. Cognizance order dated 18.10.2020 is set aside and order dated 17.04.2023 is kept in abeyance.

7. Accordingly, the cognizance order dated 18.10.2020 and order dated 17.4.2023 are, hereby, set aside. The matter is remitted to the Chief Judicial Magistrate, Court No. 24, District Azamgarh to pass order afresh after considering all aspects of the matter.

8. With the aforesaid observation, the application stands **disposed of**.

Order Date :- 18.10.2023

Saurabh