

Court No. - 88

Case :- APPLICATION U/S 482 No. - 26969 of 2023

Applicant :- Dharmendra @ Dharampal Singh

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

Counsel for Applicant :- Dharmendra Pratap Singh

Counsel for Opposite Party :- G.A.,Rajneesh Pratap Singh

Hon'ble Sanjay Kumar Singh,J.

1. Heard learned counsel for the applicant and Mr. Deepak Mishra learned A.G.A. assisted by Mr. Prashant Kumar Singh, learned Brief Holder for the State of U.P.

2. This application under Section 482 Cr.P.C. has been filed by the applicant with a prayer to quash the proceedings of Sessions Trial No. 46 of 2016 (*State vs. Dharmendra*) arising out of case crime no.273 of 2015, under Sections 323, 308 I.P.C., Police Station Jawan, District Aligarh pending in the court of Additional District Judge, Court no. 12, Aligarh.

3. The brief facts of the case which are required to be stated are that the informant/opposite party no.2- Ram Babu lodged a non-cognizable report on 08.07.2015 against the applicant alleging inter-alia that in the morning of 08.07.2015 his brother namely Indrapal went to Bareilly for some personal work. Non cognizable report further shows that when Indrapal were having tea, accused-applicant armed with wooden stick (falta) assaulted Indrapal on his head whereby he received injuries. Said N.C.R. was converted into F.I.R. under Section 154 Cr.P.C. after granting permission by the learned Magistrate under Section 155(2) Cr.P.C. After culmination of investigation, charge-sheet dated 09.09.2015 has been filed against the applicant under Sections 323 and 308 I.P.C. On 08.01.2016, case was committed to the court of Sessions and the charges were framed against the applicant on 16.02.2016. Thereafter, all the prosecution witnesses who are 7 in number have

been examined and the statement of accused-applicant under Section 313 Cr.P.C. as well as defence witnesses have also been recorded before trial court and the trial of the applicant is at the advanced stage. At this stage, the compromise application has been moved before the trial Court on 09.06.2023.

4. It is submitted by learned counsel for the applicant that after submission of charge-sheet, parties concerned have settled their dispute by way of compromise outside the Court and a compromise application dated 09.06.2023, copy thereof has been filed as Annexure no.5 to the application. On the strength of said compromise, it is next submitted that the criminal proceeding, pursuant to aforesaid charge-sheet against the applicant, is liable to be quashed.

5. On the other hand, learned A.G.A. opposed the prayer of the applicant by contending that the offence is heinous in nature, therefore, parties concerned cannot be permitted to compound the offence.

6. Having heard the submission of learned counsel for the parties and perusing the record, I find that injured Indrapal Singh (opposite party no. 3) has received following injuries:-

(i) Sutured wound of size 8cm long present over left side of parietal region, 07 cm above left eyebrow, oozing of blood present, O/E swelling in size 10.05cm x 8.5cm present, tender H/O unconsciousness, KUO, Retd. DDO.

(ii) Abrasion in size 04cm x 0.5 cm present over left side of scapular region, 13 cm below left tip of shoulder joint, red in colour.

(iii) C.C.P. over left, no external injury mark was seen.

7. For further examination of injury no.1, Injured Indrapal Singh was referred to Neurosurgeon for expert opinion and as per supplementary medical report, injury no.1 is grievous in nature as it shows

"Hemorrhage contusion on left high parietal region extra axial bleed communicated fracture on left side parietal bone inward displacement of bony fragments"

8. The Apex Court in the case of **State of Madhya Pradesh vs. Laxmi Narayan and others, (2019) 5 SCC 688** has observed that for the purpose of compromise, it would be open to the High Court to go by the nature of injury sustained, whether such injury is inflicted on the vital/delegate part of the body, nature of weapons used etc.

9. In the present case, it is not in dispute that injuries of the injured are on his vital part of the body.

10. Considering the gravity of offence and nature of injuries as noted above, I do not find any good ground to compound the offence.

11. Accordingly, the relief as sought by the applicant is refused.

12. The application lacks merit and is accordingly, ***dismissed.***

13. Office is directed to send a copy of this order to the concerned court below within a week for necessary information.

Order Date :- 12.10.2023

Imtiyaz