

Court No. - 89

Case :- APPLICATION U/S 482 No. - 30165 of 2023

Applicant :- Pankaj Kumar Alias Bauua Yadav And Another

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

Counsel for Applicant :- Ajay Kumar

Counsel for Opposite Party :- G.A.

Hon'ble Deepak Verma,J.

1. Heard learned counsel for the applicants and learned A.G.A. for the State.

2. This application under Section 482 Cr.P.C. has been filed by the applicant to quash the impugned charge sheet no. 33 of 2019, dated 29.03.2022, Cognizance order dated 20.09.20019, in Case No. 36303 of 2019, arising out of Case Crime No. 20 of 2018, under Sections 306 IPC, Police Station- Kidwai Nagar, District-Kanpur Nagar pending in the Court of Additional Sessions Judge Court No. 11, Kanpur Nagar.

3. Counsel for the applicants submits that instant case is a malicious prosecution as there is no evidence to prosecute the applicant in the present case. He next submits that on bare perusal of FIR, no offence under Section 306 IPC is made out and statement of witnesses also does not disclose that offence under Section 306 IPC is made out. There is also no evidence of abatement against the applicants and chargesheet has been submitted and thereafter charge has been framed under Section 306 IPC. As per the prosecution story, the aforesaid section is abuse of process of Court.

4. Per contra, learned AGA opposes the submissions made by counsel for the applicant and submits that submissions raised by counsel for the applicant are disputed question of facts, which cannot be examined at this stage.

5. Considered the arguments raised by learned counsel for the applicant and perused the entire records. Submissions raised by learned by learned counsel for the applicant are disputed question of facts and sitting under 482 Cr.P.C. jurisdiction, this Court has no power to examine the facts. The trial court after considering evidence collected by I.O. has framed the charged under Section

306 IPC and at this stage, quashing the entire proceeding on the basis of material collected during investigation is not proper as trial has commenced and all facts has submitted by learned counsel for the applicant is required proper examination which would be done by the trial court.

6. In view of the above, in the light of judgment of the Apex Court in the matters of **R.P. Kapur Vs. State of Punjab, A.I.R. 1960 S.C. 866, State of Haryana Vs. Bhajan Lal, 1992 SCC (Cr.) 426, State of Bihar Vs. P.P.Sharma, 1992 SCC (Cr.) 192 and lastly Zandu Pharmaceutical Works Ltd. Vs. Mohd. Saraful Haq and another (Para-10) 2005 SCC (Cr.) 283**, no ground for quashing the proceedings of the aforesaid case, is made out which may call for any interference by this Court in exercise of its inherent power under Section 482 Cr.P.C. as the same do not suffer from any illegality or infirmity.

7. The present application under Section 482 Cr.P.C. lacks merit and is, accordingly, **dismissed**.

Order Date :- 16.10.2023

A. Prajapati