

Court No. - 86

Case :- APPLICATION U/S 482 No. - 35719 of 2023

Applicant :- Ajaj Khan

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

Counsel for Applicant :- Santosh Kumar Giri

Counsel for Opposite Party :- G.A.

Hon'ble Rajiv Gupta,J.

1. Heard learned counsel for the applicant, learned A.G.A. for the State and perused the record.
2. The present application under Section 482 Cr.P.C. has been filed for quashing the charge sheet No. 252-A/2023 dated 25.4.2023 as well as entire proceedings of CNR No. UPFT 010024902023, Sessions Trial No. 530 of 2023 (State Vs. Ajaj Khan) arising out of Case Crime No. 225 of 2021, under Sections 420, 467, 468, 471, 120B IPC, Section 12 of Passport Act and Section 3/5 of U.P. Prohibition of Unlawful Conversation of Religion Act, 2021, P.S. Ghazipur, District-Fatehpur, pending in the court of Addl. Session Judge/ Fast Track Court No. 01, Fatehpur.
3. Learned counsel for the applicant has submitted that from the perusal of the allegations made in the FIR and the material collected during the course of investigation, no offence is disclosed against the applicant and the present case has been instituted with a malafide intention for the purpose of harassment. He has pointed out certain documents and statements in support of his contention, as such, entire proceedings be quashed.
4. Per contra, learned AGA has submitted that from the perusal of the allegations made in the FIR and the material collected during the course of investigation, prima facie offence is clearly made out against the applicant and as such, entire proceedings cannot be quashed.
5. From the perusal of the material on record and looking into the facts of the case, at this stage, it cannot be said that no offence is made out against the applicant. All the submissions made at the bar relate to the disputed questions of fact, which cannot be adjudicated upon by this Court under Section 482 Cr.P.C.

6. At this stage, only prima facie case is to be seen in the light of the law laid down by the Supreme Court in the cases 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**. The disputed defence of the accused cannot be considered at this stage.

7. Moreover, the applicant had already been directed to be released on bail and he has got right of discharge under Section 239, 245 or 227 Cr.P.C., as the case may be, through a proper application for the said purpose and he is free to take all the submissions in the said discharge application before the trial court.

8. At this stage, this Court is not in a position to weigh the factual matrix of the case properly and accused has a right to file a discharge application before the trial court and the trial court may decide his discharge application, if there is no evidence against him.

9. The prayer for quashing the charge sheet and entire proceedings is therefore refused.

10. However, it is directed that in case the applicant files an application for discharge before the court below, the same be considered and decided expeditiously in accordance with law after hearing the public prosecutor. The court below shall also consider each and every aspects of the matter raised by the counsel for the applicant and will pass a reasoned order.

11. With the aforesaid directions, this application under Section 482 Cr.P.C. is finally **disposed of**.

Order Date :- 30.11.2023

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