

Court No. - 88

Case :- APPLICATION U/S 482 No. - 27787 of 2023

Applicant :- Shiv

Opposite Party :- State Of U.P. And 3 Others

Counsel for Applicant :- Ved Prakash Mishra

Counsel for Opposite Party :- G.A.,Rupendra Kumar Mishra

Hon'ble Sanjay Kumar Singh,J.

Heard learned counsel for the applicant, learned Additional Government Advocate for the State of U.P./opposite party no.1, learned counsel for the opposite party no.2 and perused the record.

This application under Section 482 Cr.P.C. has been filed by the applicant with a prayer to quash the cognizance order dated 05.05.2023 and proceedings of Sessions Trial No. 679 of 2023 (*State vs. Shiv*) arising out of case crime no. 1104 of 2022, under Sections 354, 323, 504, 506, 376 I.P.C. and Sections 3/4(2) of POCSO Act, Police Station Majhola, District Moradabad pending in the court of Special Judge, POCSO Act, Court No. 1, Moradabad.

In this case, both parties have lodged F.I.R.s against each other. A first information report dated 30.12.2022 registered at Case Crime No. 1101 of 2022, under Sections 354, 506 I.P.C. and Sections 7/8 of POCSO Act, Police Station Majhola, District Moradabad was lodged by the mother of the applicant against the son of opposite party no. 2, in which charge-sheet no. 149/2023 dated 06.02.2023 has been submitted under Sections 376, 377, 506 I.P.C. and Section 5m/6 of POCSO Act. The opposite party no. 2 has also lodged a first information report on 30.12.2022 registered at Case Crime No. 1104 of 2022, under Sections 354, 323, 504, 506 I.P.C. and Sections 7/8 POCSO Act, Police Station Majhola, District Moradabad against the applicant, in which he has been charge-sheeted for the offence under Sections 354, 323, 504, 506, 376 I.P.C. and Sections 3/4 POCSO Act, on which the concerned court below took cognizance and summoned the applicant to face trial vide order dated 05.05.2023, which is the

subject matter of challenge in the present application.

At the outset learned counsel for the applicant gave up his challenge to the aforesaid impugned cognizance order and impugned criminal proceedings against the applicant and confined his submission requesting to grant some protection to the applicant to surrender before the concerned court below. The learned counsel for the applicant further stated at the Bar that he is not pressing any other prayer made in this application on merits and prayed that a direction may be issued to the concerned courts below to consider and decide the bail application of the applicant expeditiously.

Learned A.G.A. for the State of U.P. submits that in case the applicant is not pressing the relief as sought for by him on merits and wants to surrender before the concerned court below, he has no objection if the Court grants protection to him for a short period.

In view of the above, the relief as sought by the applicant in the instant application is refused.

However considering the aforesaid alternative prayer made by learned counsel for the applicant, it is directed that the applicant shall surrender before the concerned court below within two weeks from today and in case applies for bail, the bail application of the applicant shall be disposed of expeditiously by the courts below in accordance with law and keeping in view the guidelines as laid down by the Apex Court in the case of Satender Kumar Antil vs Central Bureau of Investigation and another, reported in 2021 SCC Online SC 922.

For the period of two weeks from today or till the time of surrender of the applicant before the concerned court below, whichever is earlier, he shall not be arrested in the above case.

With the above observations and directions, this application under Section 482 Cr.P.C. is disposed of.

Order Date :- 8.11.2023/Saurabh