

Court No. - 89

Case :- APPLICATION U/S 482 No. - 29082 of 2023

Applicant :- Chhotelal

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

Counsel for Applicant :- Neeraj Kumar Srivastava, Pankaj Kumar

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

Hon'ble Deepak Verma, J.

1. Heard learned counsel for the applicant and learned A.G.A. for the State.
2. The present 482 Cr.P.C. application has been filed to quash the impugned charge sheet dated 28.04.2023, Cognizance order dated 31.05.2023 as well as the N.B.W. dated 17.07.2023 passed by Additional Civil Judge (J.D.)/Judicial Magistrate, Court No. 6, Mirzapur in Case No. Nil of 2023 (State vs. Akhilesh Patel and others), arising out of Case Crime No. 19 of 2023, under Sections 354-B, 376, 323, 504, 427 IPC, P.S. Santnagar, District- Mirzapur.
3. Counsel for the applicant submits that instant proceedings against the applicant is abuse of process of court and liable to be set aside. He next submits that applicant is not named in the first information report and has been summoned by the learned Magistrate under Sections 323, 504, 427 IPC, which are non-cognizable offence. He next submits that instant proceedings against the applicant as police case is an abuse of process of law.
4. Per contra, learned AGA opposes the submissions made by counsel for the applicant and submits that learned Magistrate has rightly summoned the applicant.
5. Considered the submissions made by counsel for the parties and perused the entire record.
6. From perusal of record, it appears that first information report was lodged under Sections 354-B, 376, 323, 504, 427 IPC, thereafter, the Investigating Officer has submitted charge-sheet under Sections 354 Kha, 376, 323, 504, 427 IPC against the accused persons. Applicant's summoning under non-cognizable offence, cannot be separated from the main proceeding as other accused persons have been summoned under Sections 354Kha,

376, 323, 504, 427 IPC. In view of the above, no interference is warranted by this Court.

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

8. However, if the applicant moves discharge application before the trial court, the discharge application shall be decided expeditiously, in accordance with law.

Order Date :- 24.11.2023

Aditya