

Court No. - 92

Case :- APPLICATION U/S 482 No. - 24285 of 2009

Applicant :- Diwakar Pandey And Others

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

Counsel for Applicant :- B.K. Shukla

Counsel for Opposite Party :- Govt. Advocate, G. Dwivedi

Hon'ble Anish Kumar Gupta, J.

1. None is present on behalf of the applicants as well as for the opposite party no.2. Sri Pankaj Srivatava, learned A.G.A. is present for the State.

2. The instant application has been filed seeking quashing of the complaint case no. 430 of 2009, under Sections 147, 148, 149, 323, 504, 506, 452, 427 IPC, P.S. Lalapur, district Allahabad.

3. It appears from the record that initially the opposite party no.2 had filed an application under Section 156(3) Cr.P.C., which was rejected by the learned Magistrate granting liberty to the opposite party no.2 to file a complaint case. Subsequently, the opposite party no.2 has filed the instant complaint case and after recording the statement under Sections 200 and 202 Cr.P.C. the learned Magistrate has taken cognizance in the matter and summoned the accused persons vide order dated 18-08-2009.

4. Vide order dated 05-11-2009, this Court passed the following order:-

" Notice on behalf of the opposite party no.1 has been accepted by learned Govt. advocate.

Issue notice to the opposite party no.2 returnable within six weeks.

List in the week commencing 15-02-2009.

Learned counsel for the applicant contended that the impugned complaint has been filed by the opposite party no.2 as a counter blast to the first information report lodged by the applicant no.5 on the basis of case crime no.82 of 2008, under Sections 147, 323, 366 IPC was registered against the opposite party no.2.

It has further been contended that the opposite party no.2 before filing the impugned complaint had also filed an application under Section 156(3) Cr.P.C. in respect of the same occurrence which is the subject matter of the present complaint on the same allegations, which was rejected by the Addl. Civil Judge, court no.13, Allahabad by his order dated 21-11-2008.

Keeping in view the submissions made on behalf of the applicant it is provided that till the next date of listing, further proceedings in complaint case no. 430 of 2009, under Sections 147, 148, 149, 323, 504, 506, 452, 427 IPC, P.S. Lalapur, district Allahabad shall remain stayed.

5. Subsequently the said interim order was extended from time to time till 21-03-2012. Thereafter none appeared to press the instant application on behalf of the

applicants. The matter was adjourned on 13-04-2012, then on 25-07-2012 the said case was dismissed for want of prosecution. Thereafter restoration application has been filed and vide order dated 31-08-2012 the said case was restored to its original number and status. However, none is present to press the instant application even in the revised call.

6. The matter is pending since 2009. This Court has carefully gone through the record of the case and find that there is no illegality in the impugned order dated 18-08-2009 whereby the applicants have been summoned for the offences under Sections 147, 148, 149, 323, 504, 506, 452, 427 IPC, which is based on the material available before the learned Magistrate, therefore, the instant application is devoid of merits and is accordingly **dismissed**.

Order Date :- 31.10.2023

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