

Court No. - 92

Case :- APPLICATION U/S 482 No. - 30763 of 2014

Applicant :- Bankey Lal Yadav And Anr

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

Counsel for Applicant :- Abhishek Mishra, Dharmendra Kumar Tripathi

Counsel for Opposite Party :- Govt. Advocate

Hon'ble Anish Kumar Gupta, J.

1. Heard Sri Abhishek Mishra, learned counsel for the applicants and Sri Sandeep Chaudhary, learned A.G.A. for the State.

2. The instant application has been filed seeking quashing of charge sheet dated 10.04.2009, Case No.3254 of 2009, under Sections 323, 504, 506 I.P.C., (State Vs. Banke Lal and another), arising out of Case Crime No.313 of 2009, under Sections 323, 504, 392, 427, 506 I.P.C., Police Station Jafrabad, District Jaunpur, pending in the Court of Judicial Magistrate, Jaunpur.

3. Learned counsel for the applicants submits that applicants as well as opposite party no.2 are the distant family members and there is ongoing property dispute between the parties, for which the instant criminal case has been lodged by way of application under Section 156 (3) Cr.P.C. by the opposite party no.2 on which the F.I.R. was registered against the applicants herein. He further submits that opposite party no.2 himself has admitted in the statement under Section 161 Cr.P.C. that there is no snatching of money as has been alleged in the complaint and in the F.I.R. and he has falsely implicated the applicants herein. He further submits that the applicant no.2 is working in Border Security Force, therefore, due to such property dispute, the opposite party no.2 has falsely implicated the applicants herein.

4. On the other hand, learned A.G.A. for the State submits that clear and categorical allegation of robbery, assault and mischief has been made against the applicants herein and the police after due investigation has filed charge sheet against the applicants herein. On which the cognizance has been taken by learned Magistrate on the basis of material available before him, therefore, there is no ground for quashing of the proceedings as urged by learned counsel for the applicants.

5. Having heard the rival submissions made by learned counsel for the parties, this Court has carefully perused the record of the case and from perusal of complaint filed under Section 156 (3) Cr.P.C. and the present F.I.R., it appears that there is clear and categorical allegation of robbery, snatching and mischief against the applicants herein. After due investigation, the charge sheet has been filed by the police. In the incident, opposite party no.2 had also sustained the injuries. The injury report is also on record, therefore, the incident took place.

6. In the considered opinion of this Court, there is no ground for quashing of the proceedings merely on the basis of statement under Section 161 Cr.P.C. allegedly recorded by the police. Veracity of such statement is yet to be decided during trial.

7. In view of the above, the instant application is devoid of merit and is hereby **dismissed**.

Order Date :- 30.11.2023

Atul