

Court No. - 88

Case :- APPLICATION U/S 482 No. - 31628 of 2023

Applicant :- Smt. Poonam Gautam And Another

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

Counsel for Applicant :- Rohit Dwivedi

Counsel for Opposite Party :- G.A.

Hon'ble Sanjay Kumar Singh,J.

1-Heard learned counsel for the applicants, 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.

2-This application under Section 482 Cr.P.C. has been filed by the applicants to quash the charge-sheet dated 27.01.2023, cognizance order dated 31.05.2023 passed by Additional Chief Judicial Magistrate-I, Mathura and proceedings of Case No. 441/IX/23 (State Vs. Smt. Poonam Gautam and Others) arising out of Case Crime No. 0787 of 2022, under Sections 452, 504, 506, 427 I.P.C., Police Station Kotwali, District Mathura.

3-On 30.10.2023 following order has been passed by this Court:

"It is submitted by learned counsel for the applicants that applicant nos.1 and 2 are sister-in-law and nephew of opposite party no.2 respectively. The instant criminal case is outcome of a family dispute between the parties concerned. The applicants are willing to settle the dispute by way of mediation.

This Court feels that before passing any effective order in the matter, one opportunity of hearing to opposite party no.2 is necessary.

Learned Government Advocate has accepted notice on behalf of State of U.P./opposite party no.1.

Let a notice be issued to opposite party no.2 through C.J.M. concerned returnable at an early date.

Put up this case as fresh on 29.11.2023."

4-As per office report dated 28.11.2023, notice served upon opposite party no.2.

5-On the matter being taken up, Mr. Mohd. Danish, learned advocate has put in appearance on behalf of opposite party no.2 and submits that there is no chance of settlement of the dispute between the parties concerned by way of mediation.

6-Learned counsel for the applicants after advancing his arguments at some length and putting certain query by the Court as to whether accepting the prosecution case, prima facie offence is made out against the applicants or not and as to whether defence of the applicants can be taken into consideration at this stage or not, gave up his challenge to the aforesaid impugned charge-sheet, cognizance order and impugned criminal proceedings against the applicants and confined his submission requesting to grant some protection to the applicants to surrender before the concerned court below. The learned counsel for the applicants 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 court below to consider and decide the bail application of the applicants expeditiously.

7-Learned A.G.A. for the State of U.P. as well as learned counsel for opposite party no.2 submit that in case the applicants are not pressing the relief as sought for by them on merits and want to surrender before the concerned court below, they have no objection if the Court grants protection to them for a short period.

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

9-However considering the aforesaid alternative prayer made by learned counsel for the applicants, it is directed that the applicants shall surrender before the concerned court below within two weeks from today and in case they apply for bail, the bail application of the applicants 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**.

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

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

Order Date :- 29.11.2023

Kashifa