

Court No. - 89

Case :- APPLICATION U/S 482 No. - 33962 of 2023

Applicant :- Sarik And Another

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

Counsel for Applicant :- Ram Adhar Yadav, Satendra Kumar

Counsel for Opposite Party :- G.A.

Hon'ble Deepak Verma, J.

1. Heard learned counsel for the applicants and learned AGA for the State.

2. The present 482 Cr.P.C. application has been filed to quash the entire proceedings in Case Crime No. 78 of 2020, under Section 2/3 U.P. Gangster and Anti Social Activities (Prevention Act), 1986, P.S. Behat, District Saharanpur, pending in the Court of Additional District Judge, Court No. 8, Saharanpur, (State Vs. Faukh and others).

3. Counsel for the applicants submits that cognizance taken by the learned Magistrate is without application of judicial mind and no evidence to prosecute the applicants in the present case. All the proceedings against the applicants in the aforesaid Sections is malice proceeding. The applicants challenged the first information report before this Hon'ble Court by filing Criminal Misc. Writ Petition No.5676 of 2020 and Division Bench of this Court vide order dated 22.07.2020 stayed the arrest of the applicants till submission of the charge sheet. It is next submitted that applicants were not named in the first information report and with malice intention, has been implicated in the present case. It is apparent that no criminal offence is made out against the applicants and even if the prosecution case is taken at its face value and accepted in its entirety, even there no case is made out against the applicants.

4. *Per contra*, learned A.G.A. submits that submissions raised by counsel for the applicants disputed question of the fact and same cannot be examined at this stage.

5. Considered the argument raised by the counsel for the applicants and perused the entire record, the submission of the applicants' counsel cannot be examined and it is all disputed question of fact and trial court shall examine the same. At this stage, it cannot be said that no offence under the alleged section is made out against

the applicants. Moreover, the Hon'ble Apex Court in *R.P. Kapur Vs. State of Punjab*, A.I.R. 1960 S.C. 866, *State of Haryana Vs. Bhajan Lal*, 1992 SCC (Cr.) 426, *State of Bihar Vs. P.P.Sharma*, 1992 SCC (Cr.) 192 and lastly *Zandu Pharmaceutical Works Ltd. Vs. Mohd. Saraful Haq and another (Para-10)* 2005 SCC (Cr.) 283, no ground for quashing the proceedings of the aforesaid case, is made out which may call for any interference by this Court in exercise of its inherent power under Section 482 Cr.P.C. as the same do not suffer from any illegality or infirmity.

6. The present 482 application is **dismissed** with the aforesaid observation.

Order Date :- 16.11.2023

T.S.