

Court No. - 90

Case :- APPLICATION U/S 482 No. - 33914 of 2023

Applicant :- Samaru

Opposite Party :- State Of U.P. And 7 Others

Counsel for Applicant :- Anil Kumar Singh

Counsel for Opposite Party :- G.A.

Hon'ble Dinesh Pathak,J.

1. Heard learned counsel for the applicant, learned A.G.A. for the State and perused the record.
2. The present applicant has invoked the inherent power of this Court under Section 482 Cr.P.C. seeking a direction to the learned Civil Judge (S.D.)/ Additional Chief Judicial Magistrate, District Mau to take the cognizance of the offence under Section 308 I.P.C. after fair and proper perusal of the records and to consider it in its real perspective in Criminal Case No.3845 of 2022 (State vs. Tribhuvan Yadav and others) being Case Crime No.377A/2012, under Sections 323, 325, 506 I.P.C., Police Station Madhuban, District Mau.
3. Grievance of the applicant is that learned trial court has illegally ignored medical report submitted by the present applicant manifesting grievous injury on the head of the victim (daughter of the first informant) and miserably failed to frame charge under Section 308 I.P.C.
4. Perusal of the records reveals that having considered the charge sheet submitted by the Investigating Officer and the order of cognizance, learned trial court has framed charges, vide order dated 24.08.2022, under Sections 323, 325/34 and 506 I.P.C.
5. The grievance of the applicant, as raised before this Court on the basis of medical report, is a matter of scrutiny which can be adjudicated upon more appropriately by the learned trial court concerned after examining the admissibility and genuineness of medical report and deposition of doctor concerned. So far as the grievance with respect to the framing of charge is concerned, learned trial court has ample power to substrac or addition of charge at any stage of trial, before the final judgement delivered, in exercise of jurisdiction under Section 216 Cr.P.C. Present applicant

has an alternative remedy to approach before the court concerned by moving an appropriate application at appropriate stage of trial for addition or subtraction of charges.

6. As such, I do not find any justifiable ground to entertain the instant application in exercise of inherent jurisdiction of this Court under Section 482 Cr.P.C. There is no abuse of the process of law or any justifiable ground to pass an order to secure the ends of justice.

7. Resultantly, the instant application, being misconceived and devoid of merits, is dismissed with no order as to the cost.

Order Date :- 17.10.2023

Jitendra