

Court No. - 92

Case :- APPLICATION U/S 482 No. - 32724 of 2023

Applicant :- Dinesh Singh And Others

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

Counsel for Applicant :- Sushil Kumar Tiwari

Counsel for Opposite Party :- G.A.

Hon'ble Anish Kumar Gupta,J.

1. Heard Sri Sushil Kumar Tiwari, learned counsel for the applicants and Sri Prem Prakash Tiwari, learned A.G.A. for the State.

2. The instant application under Section 482 Cr.P.C. has been filed seeking quashing of the charge-sheet no. 146 dated 22.12.2018 as well as impugned cognizance order dated 31.01.2019 in Case No. 2360 of 2019 (State of U.P. vs. Dinesh and Others), arising out of Case Crime No. 142 of 2018 u/S 332, 353, 323, 504 and 506 I.P.C., P.S.- Ashothar, District- Fatehpur.

3. Learned counsel for the applicants submits that some electricity bill was due with regard to the electricity connection to the tubewell in the name of the wife of the applicant no.1 herein. Due to the illness of the applicant no.1, the same could not be deposited. Therefore, in the absence of applicant no.1, the opposite party no.2 came to the house of the applicant no.1 and told the wife of the applicant no.1 that your electricity bill to the tune of Rs. 50,000/- is due, it should be deposited else disconnection will be done and the F.I.R., will be registered against them. Then, the wife of the applicant no.1 asked to give us the statement of the bill, she will deposit it. Then, the said opposite party no.2 asked her to give Rs. 30,000/- and he will exempt the entire amount of bill due. Thereafter, the applicant no.2 and the other persons came there, they asked the opposite party no.2, not to discuss with the wife of the applicant no.1, when the applicant no.1 will come back, then he will be sent to your office, you can talk to him. When the applicant no.1 came to the house, such information was given to him by his wife, thereafter, he complained to the Executive Engineer for the alleged demand of bribe by the opposite party no.2.

4. Learned counsel for the applicants submit that annoyed by the said complaint made by the applicant no.1 against the opposite party no.2, the instant F.I.R. has been lodged on false and fabricated story by the opposite party no.2 against the applicant no.1 and his brother, applicant no.2 and one applicant no.3. Learned counsel for the applicants further submits that after the alleged date of incident, on 22.10.2018, the wife of the applicant no.1, has deposited the entire bill amount due against them and subsequently also, he is depositing the electricity bill as and when becomes due. The instant F.I.R., has been lodged against the applicants only because the complaint was made by the applicant no.1 against the opposite party no.2. Therefore, he has prayed for quashing of the entire

proceedings in the instant case.

5. Learned counsel for State submits that the Annexure '3', which is the copy of the complaint, dated 26.09.2018, alleged to have been submitted by the applicant no. 1 in the office of the Executive Engineer of the Electricity Department, is not reliable document at this stage. This document is true has to be proved during the trial and this document appears to have been created by the applicants to create their defence, during the trial. Therefore, on the basis of such documents, the proceedings of this case cannot be quashed, which is an unproven documents.

6. Learned counsel for the State further submit that the F.I.R., categorically makes out a case u/S 332, 353, 323, 504 and 506 I.P.C., which was duly investigated by the Investigation Officer and after investigation, the charge-sheet has been filed and after due consideration of the material available before the learned Magistrate, the learned Magistrate has taken cognizance in the matter and has summoned the applicants herein and from the order-sheet, it appears that since last five years, the applicants herein are avoiding the summons and have filed this instant application.

7. Having heard the rival submissions made by learned counsel for the parties, this Court has carefully perused the record of the case and from the perusal of the F.I.R., as well as the charge-sheet and the summoning order, it is apparently a prima facie cognizable case, has been made out against the applicants herein. However, as per Annexure '3', the complaint submitted by the applicant no.1 against the opposite party no.2 is a document, which is in the nature of defence of the applicants, which is required to be proved during the trial. Unless, the same is proved, merely on the basis of such complaints veracity of which cannot be ascertained at this stage. The proceedings cannot be quashed in the considered opinion of this Court.

8. In view thereof, the instant application lacks merit and is hereby **dismissed**.

Order Date :- 8.11.2023

Shubham Arya