

Court No. - 88

Case :- APPLICATION U/S 482 No. - 33644 of 2023

Applicant :- Rajkumar And 2 Others

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

Counsel for Applicant :- Satyendra Narayan Singh, Vikas Singh

Counsel for Opposite Party :- G.A.

Hon'ble Sanjay Kumar Singh, J.

1-Heard learned counsel for the applicants as well as learned Additional Government Advocate for the State of U.P./opposite party no.1.

2-This application under Section 482 Cr.P.C. has been filed by the applicants to quash the charge-sheet No. 198 of 2020 dated 28.04.2020, cognizance /summoning order dated 08.09.2020 and proceedings of Case No. 3289 of 2020 (State Vs. Sachin and others) arising out of Case Crime No. 960 of 2019, under Sections 147, 148, 149, 323, 506, 352 I.P.C., Police Station Baghpat, District Baghpat, pending in the court of learned Chief Judicial Magistrate, Baghpat.

3-Brief facts of the case which are required to be stated are that opposite party no.2 Ramesh Chandra Yadav who is resident of village Nagla Bahlolpur, lodged F.I.R. on 14.12.2019 for the offence under Sections 147, 323, 506 I.P.C. against thirteen named accused persons, namely, Sachin, Vijay, Rajkumar (applicant no.1), Munna (applicant no.2), Nand Kishor (applicant no.3), Gopal, Manoj, Dharmendra, Anil, Yogendra, Dhanpal, Harpal, Rajkumar and 20-25 unknown persons alleging inter alia that we had land in Haryana State, where we do farming, which is situated in village Khurrampur, Police Station Kundali, District Sonipat. On 12.12.2019, we went to our fields in Haryana State for farming, then accused persons named in the F.I.R., with illegal weapons came there and started threatening by telling us that the said land belongs to them. Due to this reason, we got scared and returned home. As soon as we crossed Yamuna river bridge, Vijay and other

accused persons started running behind us and caught us on river bank and started beating us. They fired and also threatened to kill by saying that if they will ever come to these fields in future, we will kill them. Our vehicles remained there. In the fight, Ashok Kumar Sharma, Krishna pal, Vakeel, wife of Yaseen, Rajiv Sharma and others got injured. Anyhow we have saved our lives and reached home. After culmination of investigation, charge sheet dated 28.04.2020 has been submitted against ten accused persons, namely, Sachin, Vijay, Rajkumar, Munna, Nand Kishor, Gopal, Manoj, Yogendra, Dhanpal and Harpal, on which Magistrate concerned took cognizance and summoned them vide order dated 08.09.2020. On non appearance of the accused persons including the applicants, bailable warrants are continuously being issued against the accused persons since 12.05.2022.

4-It is submitted by learned counsel for the applicants that there is delay of two days in lodging the F.I.R. Injuries are simple in nature. Jameela and Vakil received similar injuries. The injury reports have been procured after manipulation. In the Case Diary, date of injury report has been incorrectly mentioned. It is next submitted that because of having land in two villages, opposite party no.2 and his associates wanted to get forceful possession whereas possession of the said land was handed over by the authorities concerned of Sonipat to the applicants and other villagers. Two F.I.Rs. being Case Crime Nos. 467 of 2019 and 477 of 2019 have been lodged by the villagers against several persons including the witnesses of this case, therefore, the F.I.R. of this case was lodged on 14.12.2019, in order to mount pressure upon the applicants and other co-accused persons. On the material collected by Investigating Officer, the conviction of applicants is not possible. Lastly, it is submitted that the applicants have been falsely implicated in this case. No offence is made out against the applicants.

5-Per contra, learned Additional Government Advocate for the State refuting the submissions advanced on behalf of the applicants submitted that

upon perusal of F.I.R. and on the basis of the allegations made therein as well as material against the applicants, as per prosecution case, the cognizable offence against the applicants is made out. The criminal proceedings against the applicants cannot be said to be abuse of the process of the Court. Hence this application is liable to be dismissed.

6-Having examined the matter in its totality, I find that applicants are not party in above mentioned F.I.Rs. of Case Crime Nos. 467 of 2019 and 477 of 2019. From the order dated 07.01.2020 of Deputy Commissioner, Sonipat filed as Annexure No. 9 to the affidavit, it appears that some area of land of village Nagla, Bahlolpur (U.P.) came in the territory of village Khurrampur, Sub-Tehsil Rai, District Sonipat (Haryana), on which the farmers of village Bahlolpur (U.P.) were having possession and they were farming on the said land regarding which, High Court of Panjab and Haryana passed an order dated 30.05.2014 in C.W.P. No. 11426 of 2014 and matter travelled up to Supreme Court against the order dated 30.05.2014 in SLP No. 4688 of 2015, in which Hon'ble Supreme Court has passed the order of status quo on 04.07.2017. The said document indicates that there is dispute of forceful occupation of land in question. I also find that several persons as mentioned in the F.I.R. got injured in this case. The F.I.R. version has been supported by the informant and other prosecution witnesses. The delay of two days in lodging the F.I.R. is immaterial and cannot be a ground for quashing the charge sheet. The grounds taken in the application reveal that many of them relate to disputed question of fact. This Court is of the view that the appreciation of evidence is a function of the trial court. This Court in exercise of power under Section 482 Cr.P.C. cannot assume such jurisdiction and put an end to the process of trial provided under the law. It is well settled by the Apex Court in catena of judgments that the power under Section 482 Cr.P.C. at pre-trial stage should not be used in a routine manner but it has to be used sparingly, only in such an appropriate cases, where it manifestly appears that there is a legal bar against

the institution or continuance of the criminal proceedings or where allegations made in First Information Report or charge-sheet and the materials relied in support of same, on taking their face value and accepting in their entirety do not disclose the commission of any offence against the accused. The disputed questions of facts and defence of the accused cannot be taken into consideration at this pre-trial stage, which can be more appropriately gone into by the trial court at the appropriate stage. At the stage of taking cognizance of the case and summoning the accused, the court below is not required to go into the merit and demerit of the case. Genuineness or otherwise of the allegations cannot be even determined at the stage of summoning the accused.

7-Considering the facts, circumstances and nature of allegations against the applicants in this case, the cognizable offence is made out. At this stage it would not be appropriate to adjudge whether the case shall ultimately end in conviction or not. Only prima facie satisfaction of the Court about the existence of sufficient ground to proceed in the matter is required. The impugned criminal proceeding under the facts of this case cannot be said to be abuse of the process of the Court. There is no good ground to invoke inherent power under Section 482 Cr.P.C. by this Court.

8-The relief as sought by the applicants through the instant application is hereby refused.

9-This application under Section 482 Cr.P.C. lacks merit and is, accordingly, ***dismissed***.

Order Date :- 29.11.2023

Kashifa