

Court No. - 89

Case :- APPLICATION U/S 482 No. - 33350 of 2023

Applicant :- Krishna Kumar Giri

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

Counsel for Applicant :- Nitin Chopra

Counsel for Opposite Party :- G.A.,Brij Bhushan Pandey

Hon'ble Deepak Verma,J.

1. Heard learned counsel for the applicant and learned A.G.A. for the State.
2. The present 482 Cr.P.C. application has been filed to quash the charge sheet dated 29.04.2023 as well as cognizance order dated 23.05.2023 passed by the Judicial Magistrate I, Ghazipur, under Sections 328, 376, 506, 120-B IPC and also to quash the entire proceedings of S.T. No. 441 of 2023, arising out of Case Crime No. 64 of 2023, Police Station- Saidpur, District- Ghazipur, pending before the District & Session Judge, Ghazipur.
3. Learned counsel for the applicant submits that instant prosecution is a malicious prosecution and only to harass the applicant. Moreover, in the first information report it has been stated that video recording of the incident was sent to the father-in-law of the victim but the same was not found and the victim herself in her statement stated that no video has been recovered. He next submits that the instant first information report is absolutely baseless, fabricated and without support of any evidence. Cognizance taken by learned Magistrate is abuse of process of court. He therefore submits, no prosecution could proceed against the applicant, in such circumstances.
4. Per contra, learned AGA as well as learned counsel for the opposite party no. 2 oppose the submissions raised by counsel for the applicants and submit that as per the statements of the victim recorded under Sections 161 and 164 Cr.P.C., offence under alleged sections is made out against the applicant as victim has supported the prosecution case.
5. Considered the arguments raised by learned counsel for the parties and perused the entire records.

6. Submissions raised by learned counsel for the applicant are disputed questions of fact and sitting under 482 Cr.P.C. jurisdiction, this Court has no power to examine the facts. Statements of the victim recorded under Sections 161 and 164 Cr.P.C., prima facie, disclose offence against the applicant, as such, no interference is warranted by this Court.

7. In view of the above, in the light of judgment of the Apex Court in the matters of **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.

8. The present application under Section 482 Cr.P.C. lacks merit and is, accordingly, **dismissed**.

Order Date :- 31.10.2023

Aditya