

Court No. - 89

Case :- APPLICATION U/S 482 No. - 35384 of 2023

Applicant :- Bheem Kumar

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

Counsel for Applicant :- Kamlesh Kumar Tiwari

Counsel for Opposite Party :- G.A.

Hon'ble Deepak Verma,J.

1. Heard learned counsel for the applicant; learned A.G.A. for the State and perused the record.
2. The present 482 Cr.P.C. application has been filed to quash the order dated 14.07.2023 passed in Crl. Case No.487 of 2022 (Bhim Kumar Vs. Rahul Sharma & Others) under Section 156 (3) Cr.P.C., P.S. Chiluatal, District Gorakhpur.
3. Learned counsel for the applicant submits that the order passed on 14.07.2023 by the Special Judge (S.C./S.T. Act) is without application of judicial mind and before rejecting the application of applicant under Section 156(3)Cr.P.C., the court below has held that prima facie cognizable offence is made out but without assigning reason, rejected the application of applicant. The order impugned is liable to be set aside.
4. Per contra, learned A.G.A. opposed the submission raised by counsel for the applicant and submits that there is no error in the order impugned.
5. I have considered the submissions advanced by the counsel for the parties and perused the impugned order. On perusal of the order impugned, it is apparent that the order passed by the learned Judge is without application of judicial mind. In para-7 the court has held that prima facie cognizable offence is made out but court without assigning any proper reason, rejected the application of applicant under Section 156(3) Cr.P.C.
6. Thus, in view of the above and the fact that the impugned order does not reflect any application of mind, the same cannot be sustained. The order dated 14.07.2023 passed by the Special Judge (S.C./S.T. Act) in Crl. Case No.487 of 2022 (Bhim Kumar Vs. Rahul Sharma & Others) under Section 156 (3) Cr.P.C. is set aside with the direction that the court concerned shall pass a fresh order in the matter in accordance with law within a period of one month from the date of production of a certified copy of this order.
7. With the aforesaid directions, this application under Section 482 Cr.P.C. stands **disposed of.**

Order Date :- 6.12.2023

Meenu Singh