

Court No. - 88

Case :- APPLICATION U/S 482 No. - 33609 of 2023

Applicant :- Yashpal Yadav And 2 Others

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

Counsel for Applicant :- Rakesh Kumar Verma

Counsel for Opposite Party :- G.A., Mohammad Danish

Hon'ble Vinod Diwakar,J.

1. Affidavit of compliance filed by learned AGA today is taken on record.

2. Heard Shri Rakesh Kumar Verma, learned counsel for the applicants and learned AGA for the State.

3. The present application under Section 482 Cr.P.C. has been filed for quashing the proceedings of charge sheet dated 26.09.2023 and cognizance/summoning order dated 10.05.2023 in Case No. 17538 of 2023 (State vs. Yashpal Yadav & Others), under Sections 323, 308, 506 IPC, P.S. Bilari, District Moradabad arising out of Crime No. 355 of 2022 pending in the court of Additional Chief Judicial Magistrate, Court No. 3, Moradabad.

4. Learned counsel for the applicants submits that the impugned FIR has been lodged on false and fabricated statements; no independent witness has been examined by the police and the entire prosecution is doubtful. He further contends that injury caused to the deceased is simple in nature, and Section 308 IPC is not attracted. He further submits that the Investigating Officer has conducted the investigation in collusion with the complainant and no independent witness has been examined by the I.O. as such ingredients of under Section 323, 308 and 506 IPC are not made out against the applicants. Therefore, commencement of the trial would amount to abuse of the process of law.

5. *Per contra*, learned AGA submits that the Investigating Officer conducted proper investigation and collected enough incriminating material against the accused and thereafter filed the charge sheet. That during investigation the Investigating Officer has recorded the statement of witness namely Om Prakash, who has stated that

injured is deaf and dumb, therefore his statement could not be recorded. Primary argument of learned counsel for the petitioner was that during investigation the Investigating Officer did not record the statement of injured witness.

6. On perusal of the record and statement recorded by the police under Section 161 Cr.P.C., no case for quashing of the FIR is made out.

7. The petition is devoid of merit and hence dismissed.

Order Date :- 24.11.2023

Ujjawal

(Vinod Diwakar,J.)