

Court No. - 89

Case :- APPLICATION U/S 482 No. - 33288 of 2023

Applicant :- Ravindra And Another

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

Counsel for Applicant :- Farid Ahmad

Counsel for Opposite Party :- G.A.

Hon'ble Deepak Verma,J.

1. Heard learned counsel for the applicants and learned A.G.A. for the State.

2. This application under Section 482 Cr.P.C. has been filed by the applicants to quash the impugned discharge application dismissal order dated 25.07.2023 in S.T. No. 84 of 2023 (State vs. Ravindra and Another), arising out of Case Crime No. 172 of 2021, under Sections 307, 504, 506 IPC, Police Station- Bahjoi, District-Sambhal pending in the court of learned Session Judge Sambhal at Chandausi.

3. Learned counsel for the applicants submits that no offence under alleged sections is made out against the applicants. He next submits that the Trial Court without considering the evidences collected by the Investigating Officer during investigation, illegally rejected the discharge application of the applicants. He next submits that allegations in the first information report are civil in nature. He further submits that no proceedings can be initiated against the applicants as, prima facie, no offence is made out against the applicants under the alleged sections.

4. Per contra, learned AGA opposes the submissions made by counsel for the applicants and submits that learned Trial Court has considered all the relevant documents/evidences collected during investigation by the Investigating Officer and after considering the same, passed the dismissal order. He next submits that order passed by the learned Trial Court is just and proper and no interference is warranted by this Court.

5. Considered the submissions raised by counsel for the parties and perused the entire record.

6. Prima faice, offence under alleged sections is made out against

the applicants so far as evidences collected during investigation is concerned. The learned Magistrate has rejected the discharge application of the applicants after considering the relevant documents/ evidences collected during investigation and at this stage, it cannot be said that no offence under alleged sections is made out against the applicants.

7. It is legal trite that defence of the accused cannot be looked into at the stage of considering the discharge application under Section 227 Cr.P.C. as the expression used in the section 'the record of the case' means the documents and articles, if any, produced by the prosecution collected during the course of investigation. The Court is not expected to go deep into probative value of the material of records but he has to form a perspective opinion as to existence of factual ingredients constituting the offence alleged.

8. 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.

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

Order Date :- 31.10.2023

Aditya