

Court No. - 93

Case :- APPLICATION U/S 482 No. - 33429 of 2023

Applicant :- Tanveer Khan And 6 Others

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

Counsel for Applicant :- Sharad Srivastava

Counsel for Opposite Party :- G.A., Dharmendra Kumar, Shahbaz Ahamad Khan

Hon'ble Arun Kumar Singh Deshwal, J.

Heard Sri Sharad Srivastava, learned counsel for the applicants and learned AGA for the State.

The present application under Section 482 Cr.P.C. has been filed for quashing the order dated 19.8.2023 passed by Additional Sessions Judge/II FTC, Ghazipur in Criminal Revision No. 130 of 2022 (*Tanveer Khan and others v. State of U.P. and another*) and summoning order dated 3.6.2022 in complaint case No. 12463 of 2021 (*Rukhsar Khan vs. Tanveer Khan*), u/s 498A, 323, 504, 506 I.P.C. and 3/4 D.P. Act, P.S. Jamania, District Ghazipur, pending before A.C.J.M., Ghazipur.

A preliminary objection has been raised by learned A.G.A. as per order of the Apex Court passed in the case of ***Radhey Shyam Vs. State of U.P. reported in (2015) 5 SCC 423***, wherein it is observed that all the judicial orders will be challenged under Article 227 of the Constitution of India.

This Court is of the view that Hon'ble Apex Court clearly observed in the aforesaid judgment that all the judicial orders will be challenged in the supervisory jurisdiction of the High Court under Article 227 of the Constitution of India, therefore, judicial orders should normally be challenged under Article 227 of the Constitution of India. However, Hon'ble Apex Court in the case of ***Prabhu Chawla Vs. State of Rajasthan and another, (2015) 17 SCC (562)*** observed that alternative remedy is not a bar to exercise jurisdiction u/s 482 Cr.P.C. in exceptional case. Therefore, in exceptional case application u/s 482 Cr.P.C. may be entertained against judicial order in the interest of justice.

In the present case, the applicants could not make out the case of exceptional nature, which could persuade this Court to exercise its inherent power under Section 482 Cr.P.C.

In view of the above legal position, applicants are permitted to file Petition under Article 227 of the Constitution of India for challenging the impugned judicial order(s).

With the aforesaid observation, the present application is **dismissed**.

Certified copy of the impugned order, if any, may be returned to learned counsel for the applicants after retaining xerox copy of the same.

Order Date :- 17.10.2023

Vandana