

Court No. - 91

Case :- APPLICATION U/S 482 No. - 33791 of 2023

Applicant :- Jairam Das And Another

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

Counsel for Applicant :- Ramanuj Tripathi

Counsel for Opposite Party :- G.A.

Hon'ble Gajendra Kumar,J.

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

2. This application under Section 482 Cr.P.C. has been filed by the applicant with the prayer to quash the charge sheet dated 26.06.2023 and cognizance order dated 04.07.2023 as well as entire proceedings of Case No. 270 of 2023, (State v. Jairam Das & others) arising out of Case Crime No. 114 of 2023, under Sections 504, 506 I.P.C., Police Station Padri, District Mirzapur, pending in the court of Additional Civil Judge (J.D.), Court No.5, Mirzapur and further prayer to stay the further proceedings of the aforesaid case has been made.

3. It is submitted by learned counsel for the applicants that on false and frivolous allegations, the FIR was lodged against the applicants by the the opposite party no.2. After investigation the I.O. has submitted charge sheet in a perfunctory manner without collecting evidence specifically as to the criminal intimidation, after threat be caused death or grievous hurt etc. It is further submitted that the learned Magistrate without considering the facts of the case in a mechanical way has taken cognizance for the offence under section 504, 506 IPC on the charge sheet, thus submitted by the I.O., the learned Magistrate has not applied its

judicious mind and arrived at the conclusion whether offence under section 506 part-1 and part-2 is made out or not. The main submission of the learned counsel for the applicants is that offence under section 504, 506 IPC is non-cognizable offence and charge sheet has been submitted and the cognizance has been taken as a State case which could have been taken as a complaint case and the I.O. should have treated as a complaint in that case.

4. Learned A.G.A. opposed the prayer but did not dispute the aforesaid facts.

5. Thus, the order impugned dated 16.03.2022 is hereby set-aside. The matter is remanded back to the trial court concerned to decide the matter afresh in accordance with law, within a period of two months from the date of production of certified copy of this order.

With the aforesaid observations, the application stands **disposed of**.

Order Date :- 13.10.2023

Shiv