

Court No. - 88

Case :- APPLICATION U/S 482 No. - 33694 of 2023

Applicant :- Dharmendra

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

Counsel for Applicant :- Rajesh Kumar Singh

Counsel for Opposite Party :- G.A.

Hon'ble Sanjay Kumar Singh,J.

1-Heard learned counsel for the applicant as well as learned A.G.A. for the State of U.P./opposite party no.1.

2-This application under Section 482 Cr.P.C. has been filed by the applicant with a prayer to quash the proceeding of Gangster Session Trial No. 179 of 2011 (State of U.P. Vs. Dharmendra) arising out of Case Crime No. 16 of 2011, under Section 2/3 U.P. Gangster and Antisocial Activities (Prevention) Act, 1986, Police Station-Naujhil, District-Mathura Further prayer has been made to conclude the proceedings of aforesaid Session Trial within a time bound frame.

3-On 09.11.2023 following order was passed by this Court:

"Heard learned counsel for the applicant as well as learned A.G.A. for the State of U.P./opposite party no.1.

This application under Section 482 Cr.P.C. has been preferred by the applicant with a prayer to quash the proceeding of Gangster Session Trial No. 179 of 2011 (State of U.P. Vs. Dharmendra) arising out of Case Crime No. 16 of 2011, under Sections 2/3 U.P. Gangster and Antisocial Activities (Prevention) Act, 1986, Police Station-Naujhil, Distirict-Mathura, pending in the court of Additional Session Judge, Court No.5/Special Judge (Gangster Act), Mathura. Further prayer has been made to conclude the proceedings of aforesaid Session Trial within a time bound frame.

It is submitted by learned counsel for the applicant that F.I.R. of Case Crime No. 16 of 2021, under Section 2/3 U.P. Gangsters and Antisocial Activities (Prevention) Act, 1986 was lodged against the applicant on 12.01.2011 and after submission of charge sheet the case was registered as Sessions Trial No. 179 of 2021 (State Vs. Dharmendra), which

is pending before the Special Judge (Gangster Act), Mathura. Assailing the said proceeding, it is also argued that in all the three cases, on the basis of which the impugned proceeding against the applicant has been initiated, he has been acquitted by the trial court. It is also pointed out that for the last twelve years not a single prosecution witness has been produced by the prosecution, despite issuance of repeated non-bailable warrants to the Investigating Officer of this case.

Considering the peculiar facts of the case, Senior Superintendent of Police, Mathura is directed to file his personal affidavit, showing cause as to why not a single prosecution witness has been produced in this case before the trial court, by the next date fixed in the matter, failing which he shall appear in person on the next date.

Put up this case as fresh on 01.12.2023.

Registrar (Compliance) is directed to communicate this order to the Director General of Police, U.P., Lucknow."

4-On the matter being taken up, Mr. Deepak Mishra, learned A.G.A. for the State submits that in compliance of order dated 09.11.2023 of this Court, Mr. Shailesh Kumar Pandey, presently posted as Senior Superintendent of Police, Mathura has filed his personal affidavit. It is next submitted that three prosecution witnesses, namely, Satyavir, Awanish Kumar and Inspector Manish Saxena have been examined before the trial court on 24.11.2023. It is also pointed out that two prosecution witnesses, namely, Bhagwan Singh and Kunwarpal Singh died during the pendency of trial and remaining witnesses will be produced on the next date fixed *i.e.* 05.12.2023 for recording their statements before the trial court on behalf of prosecution.

5-In view of the above, this Court feels that no useful purpose would be served in keeping this matter pending. Accordingly, trial court is directed to conclude the trial of the applicant, without granting any adjournment to either of the parties within six months.

6-Senior Superintendent of Police, Mathura shall also ensure the production of remaining prosecution witnesses before the trial court on the next date fixed in the matter.

7-Learned A.G.A. shall communicate this order to S.S.P., Mathura for necessary information and compliance.

8-With the aforesaid directions, this application is ***disposed of.***

Order Date :- 1.12.2023

Kashifa