

Court No. - 89

Case :- APPLICATION U/S 482 No. - 34146 of 2023

Applicant :- Radheshyam Kanaujiya

Opposite Party :- State Of U.P. And 3 Others

Counsel for Applicant :- Prem Prakash

Counsel for Opposite Party :- G.A.

Hon'ble Deepak Verma,J.

1. Heard learned counsel for the applicant and learned A.G.A. for the State.
2. The present 482 Cr.P.C. application has been filed to quash the entire proceedings of Special Trial No. 175 of 2020 (State vs. Radheshyam Kanaujiya), arising out of Case Crime No. 153 of 2020, under Sections 363, 366, 376-D IPC & Section 5/6 of the Protection of Children from Sexual Offences Act, Police Station- Utraon, District- Prayagraj as well as the charge sheet No. 131 of 2020 dated 25.08.2020, pending in the court of Special Judge POCSO II, Allahabad.
3. Counsel for the applicant submits that no offence under alleged sections is made out against the applicant. All allegations alleged against the applicant are not supported by any cogent evidence. He next submits that victim's statements recorded under Sections 161 & 164 Cr.P.C. are not supporting the prosecution case. He next submits that medical examination is also not supporting the prosecution case. He next submits that applicant has already solemnized marriage with the victim and victim has given statement on the pressure of her parents. He further submits that cognizance taken by learned Magistrate is without application of application of judicial mind.
4. Per contra, learned AGA opposes the submissions made by counsel for the applicant and submits that submissions raised by counsel for the applicant are disputed questions of fact, which cannot be examined at this stage.
5. Considered the arguments raised by learned counsel for the applicant and perused the entire records. Submissions raised by learned counsel for the applicant are disputed questions of fact, which cannot be examined at this stage by this Court and perusal

of evidences annexed with the instant application, it cannot be said no offence under alleged sections is made out against the applicant.

6. 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.

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

Order Date :- 4.12.2023

Aditya