Court No. - 86

Case :- APPLICATION U/S 482 No. - 34838 of 2023

Applicant :- Satish Kumar Singh
Opposite Party :- State of U.P. and Another
Counsel for Applicant :- Vineet Kumar Singh,Sanjay Kumar Singh
Counsel for Opposite Party :- G.A.,Chandra Kumar Rai

Hon'ble Rajiv Gupta,J.

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

2. The present application under Section 482 Cr.P.C. has been filed to quash the entire proceedings of S.T. No. 402 of 2023 and set-aside the order dated 31.3.2023 passed by Judicial Magistrate, F.T.C., Azamagarh in case No. 1632 of 2023, State Vs. Satish Singh and others, under sections 376, 354-B, 498-A, 323, 504, 506, 342 I.P.C. and section 3/4 of D.P. Act 1961 arising out of case crime no. 0128 of 2022, P.S. Jahanaganj, District Azamgarh.

3. Learned counsel for the applicant has submitted that from the perusal of the allegations made in the FIR and the material collected during the course of investigation, no offence is disclosed against the applicant and the present case has been instituted with a malafide intention for the purpose of harassment. He has pointed out certain documents and statements in support of his contention, as such, entire proceedings be quashed.

4. Per contra, learned AGA has submitted that from the perusal of the allegations made in the FIR and the material collected during the course of investigation, prima facie offence is clearly made out against the applicant and as such, entire proceedings cannot be quashed.

5. From the perusal of the material on record and looking into the facts of the case, at this stage, it cannot be said that no offence is made out against the applicant. All the submissions made at the bar

relate to the disputed questions of fact, which cannot be adjudicated upon by this Court under Section 482 Cr.P.C.

6. At this stage, only prima facie case is to be seen in the light of the law laid down by the Supreme Court in the cases 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. The disputed defence of the accused cannot be considered at this stage.

7. Moreover, the applicant had already been directed to be released on bail and he has got right of discharge under Section 239, 245 or 227 Cr.P.C., as the case may be, through a proper application for the said purpose and he is free to take all the submissions in the said discharge application before the trial court.

8. At this stage, this Court is not in a position to weigh the factual matrix of the case properly and accused has a right to file a discharge application before the trial court and the trial court may decide his discharge application, if there is no evidence against him.

9. The prayer for quashing the entire proceedings is therefore refused.

10.However, it is directed that in case the applicant files an application for discharge before the court below, the same be considered and decided expeditiously in accordance with law after hearing the public prosecutor.

11. With the aforesaid directions, this application under Section 482 Cr.P.C. is finally disposed of.

Order Date :- 28.11.2023
R

Digitally signed by :-
RAM ASARE MORYA
High Court of Judicature at Allahabad