

Court No. - 89

Case :- APPLICATION U/S 482 No. - 35933 of 2023

Applicant :- Shiv Dutt Sharma Ad 3 Others

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

Counsel for Applicant :- Yogendra Nath Shukla

Counsel for Opposite Party :- G.A.

Hon'ble Deepak Verma,J.

1. Heard learned counsel for the applicants and learned AGA for the State.
2. The present 482 Cr.P.C. application has been filed to quash the Charge sheet dated 16.05.2023, cognizance order dated 19.05.2023 in Case Crime No. 78 of 2022 (State Vs. Ashok and Others), under Section 2/3 Gangsters Act, 1986, P.S. Baleni, District Baghpat.
3. Learned counsel for the applicant submits that applicants have been released on bail and on perusal of record, no case is made out against the applicants to prosecute them in the present case and instant proceedings against the applicants should be quashed.
4. Learned A.G.A. opposed the submission of counsel for the applicants and submitted that applicants may file discharge application before the court concerned.
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 applicants. 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. At this stage only prima facie case is to be seen in the light of the law laid down by Supreme Court in 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.
5. The prayer for quashing the charge sheet dated Charge sheet dated 16.05.2023, cognizance order dated 19.05.2023 in Case Crime No. 78 of 2022 (State Vs. Ashok and Others), under Section 2/3 Gangsters Act, 1986, P.S. Baleni, District Baghpat, is refused.

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

7. However, as requested, the applicant is permitted to appear before the concerned court and he may move an application claiming discharge. The concerned court after hearing the counsel shall decide the discharge application, in accordance with law.

Order Date :- 13.12.2023

Meenu Singh