

Court No. - 89

Case :- APPLICATION U/S 482 No. - 35364 of 2023

Applicant :- Vipin Kumar

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

Counsel for Applicant :- Manoj Kumar Srivastava, Santosh Kumar Upadhyay

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 criminal proceedings of S.T. No. 488 of 2023 pending before the Additional Session Judge/ Fast Track Court, District-Gautam Buddha Nagar in relation with Charge-sheet No. 01 dated 04.03.2023 in Case Crime No. 0005 of 2023, under Sections 8, 20 and 22 of Narcotic Drugs and Psychotropic Substances Act, 1985, P.S. Commissionerate, Gautam Buddha Nagar.
3. Counsel for the applicant submits that the cognizance taken by learned Magistrate in the present case is without application of judicial mind and is liable to be set aside. He next submits that charge-sheet submitted by the Investigating officer in the present case is not supported by any evidence. He next submits that applicant is Flip-kart Delivery Boy and has been falsely implicated in the present case. Applicant has no concern with the recovered articles. He next submits that all the allegations made against the applicant are totally frivolous and not tenable in the eye of law.
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 submissions raised by learned counsel for the applicant and perused the entire records. Submissions of learned counsel for the applicant that applicant is a delivery boy in the Flip-Kart and he has no concern with the recovered substances, all are disputed questions of fact and sitting under 482 Cr.P.C. jurisdiction, this Court has no power to examine the facts.

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 :- 16.11.2023

Aditya