

Court No. - 91

Case :- APPLICATION U/S 482 No. - 35776 of 2023

Applicant :- Subhash @ Bhudev Bansal And 5 Others

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

Counsel for Applicant :- Nand Lal Pandey,Suyash Pandey

Counsel for Opposite Party :- G.A.

Hon'ble Gajendra Kumar,J.

1. Heard learned counsel for the applicants and learned AGA for the State.

2. This application u/s 482 Cr.P.C. has been filed by the applicants with the prayer to quash the impugned order dated 07.07.2023 in Case Crime No.68 of 2014, under Sections 147, 148, 149, 353, 333, 336, 307, 341, 186, 188 IPC and Section 7 Criminal Law Amendment Act, Police Station Bahadurgarh, District Hapur and further be pleased to direct the Additional District and Sessions Judge-Ist, Hapur to reconsider the matter in the light of the provisions under Section 321 Cr.P.C. and law laid down by the Hon'ble Apex Court for withdrawing the case under Section 321 Cr.P.C..

3. Learned counsel for the applicants submits that in S.T. No.380 of 2015, under Sections 307, 376, 504 IPC, Police Station Bahadurgarh, District Hapur, an application was moved by the prosecution under Section 321 Cr.P.C., which was heard and decided vide order dated 07.07.2023 and the same was rejected. Further submission is that the application has been rejected without going into the merits of the case as State Government has approved for the withdrawal of the case and in compliance of the so sent communication by the State Government, application for withdrawal application was moved by the prosecution, which has

been dismissed in a mechanical way. Further submission is that there is no specific reason has been assigned, however, the case law cited, which is in favour of the applicants. Further submission is that continuation of the entire criminal proceeding is nothing but an abuse of process of Court, which is liable to be quashed.

4. On the other hand, learned AGA has opposed the prayer and submitted that the order is perfect in law as well as in facts. Further submission is that there is no illegality, infirmity or perversity in the impugned order.

5. Keeping in view the submission and contention made by the learned counsel for the parties and from the perusal of the record and particularly in the impugned order, it is apparent that on the application moved by the prosecution under Section 321 Cr.P.C., there is no reason assigned in withdrawal of the same. It is settled law that the prosecution has to apply the independent mind and assigned reason for the withdrawal of the case under Section 321 Cr.P.C., which is reflected from the application moved by the prosecution. Moreover from the impugned order dated 07.07.2023, it is apparent that the learned Additional Sessions Judge has considered all the aspect of the case and came to the conclusion that there is no ground for permitting the prosecution to withdraw the case under Section 321 Cr.P.C.. No good ground is made out for interfering with the aforesaid impugned order while invoking the inherent jurisdiction under Section 482 Cr.P.C.. Hence, the prayer made in the application is refused.

6. With the aforesaid observations, the instant application u/s 482 Cr.P.C. is **dismissed**.

Order Date :- 5.12.2023
Sanjeet