

Court No. - 89

Case :- APPLICATION U/S 482 No. - 35452 of 2023

Applicant :- Vishwajeet Maurya

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

Counsel for Applicant :- Pushkar Kushwaha

Counsel for Opposite Party :- G.A.

Hon'ble Deepak Verma,J.

1. Heard Sri Pushkar Kushwaha, learned counsel for the applicant and learned AGA for the State.
2. The present 482 Cr.P.C. application has been filed to quash the impugned orders dated 05.11.2022 and 19.01.2023 passed by ACJM, Court No.10, Varanasi, in Case No.4514 of 2012 arising out of Case Crime No.130 of 1993, under Sections 323, 504, 506 I.P.C., P.S. Jansa, District Varanasi.
3. Counsel for the applicant submits that the applicant has challenged the impugned order dated 27.01.2023 by which applicant's application under Section 311 Cr.P.C. has been rejected by the trial court. The applicant, who is informant of the case, has not given opportunity to produce the witness and without considering the statement of all the witnesses, trial court has rejected the application of the applicant. The order passed by trial court is illegal and is liable to be set aside as applicant must be given opportunity to produce all the witnesses which is required for just decision of the case.
4. *Per contra*, learned A.G.A. opposed the submission made by applicant's counsel and submits that the impugned orders are just and proper and only to linger on the proceedings, the applicant has moved the application.

5. Considering the argument raised by applicant's counsel, learned AGA and perused the judgement it is apparent that applicant, who was given ample opportunity for producing the evidence and witnesses but he did not produce the same and proceeding is pending since 1993 and on 08.03.2018 applicant was given last opportunity to produce the evidence and witnesses but till 05.11.2022 no evidence or witnesses had been produced, thereafter, trial court closed the opportunity to produce the evidence and recorded the statement under Section 313 Cr.P.C. on 14.11.2022 and thereafter date was fixed for hearing as 19.11.2022 and for judgment date was fixed as 11.12.2022, thereafter, on 20.12.2022 applicant moved an application under Section 311 Cr.P.C. for summoning and examining the five prosecution witnesses. On perusal of judgment and order passed by trial court, it is apparent that applicant was given much opportunity to produce the witnesses but he did not produce the same and when the case was heard on merit and put up for judgment then application under Section 311 Cr.P.C. was moved only to delay the proceedings. From record, it is apparent that for about four years, case was pending for evidence but prosecution has not produced any evidence or witnesses and when the case was listed for judgement then he moved the application for delay in the trial proceedings. In view of the above, *prima facie*, the impugned order is just and proper and no interference is warranted, at this stage.

6. The present 482 application is **dismissed** with the aforesaid observation.

Order Date :- 31.10.2023

Nitin Verma