

Court No. - 92

Case :- APPLICATION U/S 482 No. - 35757 of 2023

Applicant :- Smt. Sangeta Devi And 4 Others

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

Counsel for Applicant :- Manvendra Nath Singh

Counsel for Opposite Party :- G.A.

Hon'ble Anish Kumar Gupta,J.

1. Heard Sri Manvendra Nath Singh, learned counsel for the applicants and Sri Sandeep Choudhary, learned A.G.A. for the State.

2. The instant application under Section 482 Cr.P.C. has been filed seeking quashing of the summoning/cognizance order dated 05.04.2023 in Case No. 83 of 2022 (Sunil Kumar Chauhan vs. Pravesh and others) u/S 323, 504, 506, 452 I.P.C., P.S.- Jafrabad, District- Jaunpur, pending in the court of learned Additional Civil Judge (Jr. Division), Jaunpur.

3. Learned counsel for the applicant submits that with regard to the same incident dated 12.07.2022, the opposite party no.2 has earlier registered an N.C.R. against the applicants on 12.07.2022 itself, in which an application u/S 155(2) Cr.P.C. was moved and the investigation was handed over to Police and Police after investigation have submitted the charge-sheet dated 08.12.2022 against the applicants and the applicants are facing the trial. Subsequently, for the same incident, the opposite party no.2 has also filed a complaint case on 06.08.2022 in which the applicants have been summoned by the trial court. Learned counsel for the applicants further submits that the applicants are facing two criminal prosecutions for the same offence, which is not permitted in law. Therefore, he has prayed for quashing of the entire proceedings of the instant complaint case.

4. Per contra, learned A.G.A. relying upon Section 210 of Cr.P.C. submits that the applicants have liberty to approach the concerned trial court for trial of both the cases together in terms of Section 210 Cr.P.C.

5. Having heard the rival submissions made by learned counsels for the parties, this Court has carefully perused the record of the case.

6. Section 210 of Cr.P.C., reads as under:

"210. Procedure to be followed when there is a complaint case and police investigation in respect of the same offence.

(1) When in a case instituted otherwise than on a police report (hereinafter referred to as a complaint case), it is made to appear to the Magistrate, during the course of the inquiry or trial held by him, that an investigation by the police is

in progress in relation to the offence which is the subject- matter of the inquiry or trial held by him, the Magistrate shall stay the proceedings of such inquiry or trial and call for a report on the matter from the police officer conducting the investigation.

(2) If a report is made by the investigating police officer under section 173 and on such report cognizance of any offence is taken by the Magistrate against any person who is an accused in the complaint case, the Magistrate shall inquire into or try together the complaint case and the case arising out of the police report as if both the cases were instituted on a police report.

(3) If the police report does not relate to any accused in the complaint case or if the Magistrate does not take cognizance of any offence on the police report, he shall proceed with the inquiry or trial, which was stayed by him, in accordance with the provisions of this Code."

7. In the situations where the Police report is filed and also the compliant case is filed by the victim then Section 210 Cr.P.C. provides a complete procedure for trial of both the cases together by the learned trial court. Therefore, the applicants have liberty to approach the trial court for applying for trial of both the cases together in terms of Section 210 Cr.P.C. The applicants are granted two weeks' time to approach the trial court for clubbing and trial of both the cases together. Till the period of two weeks, no coercive action shall be taken against the applicants herein.

8. With the aforesaid observations, the instant application is **disposed of**.

Order Date :- 21.11.2023

Shubham Arya