

Court No. - 88

Case :- APPLICATION U/S 482 No. - 35328 of 2023

Applicant :- Yadunandan

Opposite Party :- State Of U.P. . And Another

Counsel for Applicant :- Yatish Kumar Dwivedi

Counsel for Opposite Party :- G.A.

Hon'ble Sanjay Kumar Singh,J.

1. Heard learned counsel for the applicant as well as learned A.G.A. for the State of U.P./opposite party no.1.

2. This application under Section 482 Cr.P.C. has been filed by the applicant with a prayer to quash the order dated 16.08.2023 passed by learned Judicial Magistrate, Charkhari, District Mahoba as well as proceeding of Complaint Case No. 131 of 2012 (Shivkali Vs. Bhagwan Das and others), under Sections 323, 504, 506 I.P.C., Police Station Charkhari, District Mahoba, pending in the court of learned Civil Judge/Judicial Magistrate, Charkhari, District Mahoba.

3. Brief facts of the case which are required to be stated are that in this case complaint dated 17.05.2012 was filed by opposite party no.2 against Bhagwan Das, Bahadur and Nandram s/o Bahadur, in which after recording statement under Section 200 and 202 Cr.P.C., they were summoned vide order dated 25.11.2012 to face trial under Section 323, 504, 506 I.P.C. On 16.08.2023, opposite party no.2 moved an application before the trial court mentioning therein that real name of Nandram is Yadunandan, therefore, he taking the benefit of his nickname, did not appear before the trial court pursuant to summoning order dated 25.11.2012. The said application of opposite party no.2 has been allowed by the trial court vide order dated 16.08.2023 and non bailable warrant has been issued against Yadunandan (applicant), which is the subject matter of challenge in the present case.

4. Main substratum of argument of learned counsel for the applicant is that name of applicant is Yadunandan s/o Bahadur. The accused Nandram s/o Bahadur is a different person, therefore, non bailable warrant has wrongly been issued against the applicant. Hence, impugned order dated 16.08.2023, is liable to be quashed.

5. On the other hand, learned A.G.A. for the State vehemently opposed the submissions of learned counsel for the applicant by contending that accused-Nandram and applicant-Yadunandan are same person. No other person in the name of Nandram s/o Bahadur exists in the village-Aktohan, Police Station Charkhari, District Mahoba.

6. On putting query by the Court as to whether any person in the name of Nandram s/o Bahadur exists in the village in question or not, learned counsel for the applicant could not give satisfactory reply. This Court is of the view that it is a disputed question of facts, which cannot be adjudicated at this stage by this Court. The applicant can raise objection before the concerned court below at the appropriate stage.

7. This application under Section 482 Cr.P.C. lacks merit and is, accordingly, ***dismissed***.

Order Date :- 6.12.2023

Kashifa