

Court No. - 89

Case :- APPLICATION U/S 482 No. - 35336 of 2023

Applicant :- Om Prakash

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

Counsel for Applicant :- Krishna Gopal

Counsel for Opposite Party :- G.A.

Hon'ble Deepak Verma,J.

1. Supplementary affidavit filed today is taken on record.
2. Heard learned counsel for the applicant and learned A.G.A. for the State.
3. The present 482 Cr.P.C. application has been filed to set-aside the impugned order dated 24.05.2023 passed by the learned Special Judge (SC/ST) Act, Bareilly in Sessions Trial No. 107 of 2018 (State vs. Om Prakash), arising out of Case Crime No. 106 of 2015, under Sections 354, 323, 504, 506 IPC and Section 3(1)XI of SC/ST Act, Police Station- Meerganj, District- Bareilly and to recall the P.W.1, Smt. Jagwati in Sessions Trial No. 107 of 2018 (State vs. Om Prakash).
4. Counsel for the applicant submits that applicant has challenged the order dated 24.05.2023 by which application under Section 311 Cr.P.C. of the applicant, was rejected by the learned Trial Court. He next submits that the Trial Court without considering the relevancy of the questions, which are required to be cross examined from the P.W.1, rejected the application of the applicant. He next submits that the order dated 24.05.2023 passed by the Trial Court, is an abuse of process of court and is liable to be set-aside.
5. Learned AGA opposes the submissions raised by counsel for the applicant and submits that the order dated 24.05.2023 is just and proper and no interference is required by this Court.
6. Considered the submissions raised by counsel for the parties and perused the entire record. On perusal of record, it transpires that applicant moved an application under Section 311 Cr.P.C. that P.W.1 could not be cross examined by him regarding the place of incident. On perusal of order dated 24.05.2023 and statement of

P.W.1, it transpires that P.W.1 was cross examined by the applicant regarding the place of incident and it is deposed that the alleged incident occurred on '*chabutara*' of the accused. Again for the same query, application has been moved by the applicant to summon the P.W.1 for cross-examination.

7. In view of the above, order dated 24.05.2023 passed by the learned Trial Court is just and proper and no interference is warranted by this Court.

8. The present application under Section 482 Cr.P.C. lacks merit and is, accordingly, **dismissed**.

Order Date :- 30.10.2023

Aditya