

Court No. - 92

Case :- APPLICATION U/S 482 No. - 35549 of 2023

Applicant :- Geetam Singh And 5 Others

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

Counsel for Applicant :- Vivek Kumar Yadav

Counsel for Opposite Party :- G.A.

Hon'ble Anish Kumar Gupta,J.

1. Heard Sri Vivek Kumar Yadav, learned counsel for the applicants and the Sri Virendra Nath Upadhyay, learned AGA for the State.

2. The instant application under Section 482 Cr.P.C. has been filed seeking quashing of the cognizance/summoning order dated 27.06.2023 in Complaint Case No. 13463 of 2022 (Manisha Devi vs. Geetam Singh and others), under Section 323, 452, 354, 504, 506 IPC, P.S. Mirahchi, District Etah, pending before the Judicial Magistrate/Additional Civil Judge, Etah.

3. Learned counsel for the applicants submits that the instant complaint case has been lodged by the opposite party no.2 on 15.10.2022 alleging the incident dated 03.10.2022, for which an FIR was already registered against the opposite party no.2 and her family members by the applicant no.1 herein and the instant complaint is nothing but a counterblast complaint filed by the opposite party no.2 on false and fabricated facts of the case. Therefore, learned counsel for the applicants has prayed for quashing of the summoning order dated 27.06.2023 as well as the entire proceeding of Complaint Case No. 13463 of 2022 (Manisha Devi vs. Geetam Singh and others).

4. Per contra, learned counsel for the State submits that in their complaint as well in the FIR, the applicants are admitting the incident of 03.10.2022 at about 09:00 A.M. in the morning. The same incident is alleged in the complaint case as well. Therefore, some incident has taken place at the given time and place. However, both the parties are alleging that the other side was the assaulter against them. Therefore, the veracity of the allegation has to be tested during trial of the case and, therefore,

there are no ground for interference with the instant case by this Court in exercise of jurisdiction under Section 482 Cr.P.C. As prima facie the allegations made in the complaint are of the cognizable offence, which has been duly considered by the learned Magistrate before issuing summons to the applicants herein. The learned Magistrate has also considered the statements of the opposite party no.2 under Section 200 and the other witnesses under Section 202 Cr.P.C. in addition to the complaint. Therefore, the summoning order has been passed on the basis of the material available before the learned Magistrate. Therefore, there is no illegality in the summoning order.

5. Having heard the rival submissions made by learned counsel for the parties, this Court has carefully perused the record of the case. From the plain reading of the complaint, the offence of cognizable nature is made out against the applicants, which is supported by the witnesses under Section 200 and 202 Cr.P.C. The applicants herein have also filed an FIR against the opposite party no.2 and her family members alleging the incident of the same date, time and place. Therefore, the applicants are not denying the incident as such the veracity of allegations as to who was the aggressor has to be determined during the trial of the case.

6. Therefore, this Court does not find any illegality in the summoning order passed by the learned Magistrate and there are no ground for interference or for quashing of the summoning order as well as the entire proceeding as prayed by learned counsel for the applicants. Therefore, no interference is required in exercise of power under Section 482 Cr.P.C. and the instant application is devoid of merits and is accordingly **dismissed** in the light of judgments of Apex Court in **R. P. Kapoor Vs. State of Punjab, AIR 1960 S.C. 866; State of Haryana v. Bhajan Lal, 1992 Supp (1) SCC 335 : 1992 SCC (Cri) 426] and Neeharika Infrastructure Pvt. Ltd. vs. State of Maharashtra and Others : 2021 SCC OnLine SC 315.**

Order Date :- 7.11.2023

Ashish Pd.