

Court No. - 92

Case :- APPLICATION U/S 482 No. - 35833 of 2023

Applicant :- Shakib

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

Counsel for Applicant :- Adil Khan

Counsel for Opposite Party :- G.A.,Amit Rai,Avesh Pratap Singh

Hon'ble Anish Kumar Gupta,J.

1. Heard Sri Adil Khan, learned counsel for the applicant, Sri Avesh Pratap Singh, learned counsel for the opposite party no.2 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 impugned order 14.03.2023 passed by Additional District and Sessions Judge (Rape Cases and POCSO Act), Chandausi at Sambhal in S.S.T No. 21 of 2018 (State of U.P. vs. Rizwan), arising out of Case Crime No. 615 of 2017 u/S 452, 376-D, 354-A, 323, 504, 307 I.P.C., and Section 3/4 of POCSO Act, P.S.- Asmouli, District- Sambhal.

3. Learned counsel for the applicant submits that he has no connection with the victim or her family. In the instant case the incident is alleged on 19.08.2017, wherein the F.I.R. has been lodged by the informant on 08.11.2017. Learned counsel for the applicant further relying upon the statement of the mother of the victim and an independent witness that he was not present on the spot and he has been falsely implicated.

4. Learned counsel for the applicant further submits that the applicant herein after due investigation was exonerated by the Investigation Agency and no charge-sheet was filed against the applicant herein. However, after the recording of the statements of PW-1, PW-2, PW-3 & PW-4, the public prosecutor has moved an application u/S 319 Cr.P.C., and thereupon, the public prosecutor has filed the application u/S 319 Cr.P.C. and after considering the evidence against the applicant herein, the said application was allowed vide order dated 14.03.2023 by the learned Additional District and Sessions Judge, against which the instant application has been filed by the applicant herein. Therefore, learned counsel for the applicant submits that he has been falsely implicated by informant. Therefore, he has prayed for quashing of the entire proceedings and quashing of the order dated 14.03.2023 against him.

5. On the other hand, learned counsel for the learned counsel for the opposite party no.2 submits that the reasons for delay in lodging the F.I.R. has been well explained in the F.I.R. itself. The informant after getting the information regarding the incident, he came to village and took the daughter to the hospital and therefrom she was referred to the Hospital in Meerut, and subsequently, to the Lok Nayak Hospital, New Delhi, where the victim was being treated and she was not in a position to come back and lodge the F.I.R.. Subsequently, when the victim was discharged from the Lok Nayak Hospital, New Delhi, he came to the police station concerned and lodged the instant F.I.R. The informant as well as the victim in their Statements u/S 161 and 164 Cr.P.C., have categorically made the allegations against the applicant herein as well. Therefore, prima facie material is available on record against the applicant herein. Therefore, he has prayed for rejection of the application.

6. Learned A.G.A. for State submits that after the depositions of PW-1, PW-2, PW-3 & PW-4 were recorded in Court and there being clear and clinching evidence against the applicant herein, the Special Public Prosecutor, POCSO Act, has moved an application u/S 319 of Cr.P.C. Thereafter, having considered the evidence available on record, the said application has been allowed and the present applicant has been summoned for the offences u/S 452, 376-D, 354-A, 323, 504, 307 I.P.C., and Section 3/4 of POCSO Act. Therefore, it can't be said that there was no material against the applicant herein for summoning him.

7. Having heard the submissions made by learned counsels for the parties, this Court has carefully considered the material available on record. In the F.I.R., the applicant has been named and which has been supported by the statements of informant as well as the victim in Statements u/S 161 and 164 Cr.P.C. Again, during the trial also, the PW-1, PW-2, PW-3 & PW-4, have categorically deposed against the applicant herein and the clear and categorical role of the applicant has been assigned. Therefore, in the considered view of this Court, there is no illegality in the order dated 14.03.2023, passed by Additional District and Sessions Judge (Rape Cases and POCSO Act), Chandausi.

8. Therefore, the instant application is devoid of merit and is hereby ***dismissed***.

Order Date :- 29.11.2023
Shubham Arya