

**Court No. - 93**

**Case :-** APPLICATION U/S 482 No. - 36019 of 2023

**Applicant :-** Devraj And Another

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

**Counsel for Applicant :-** Bansh Raj Mishra

**Counsel for Opposite Party :-** G.A.

**Hon'ble Arun Kumar Singh Deshwal,J.**

1. Heard Sri Bansh Raj Mishra, learned counsel for the applicant, Sri Arbind Kumar, learned A.G.A for the State and perused the record.

2. The instant application under Section 482 Cr.P.C. has been filed for quashing the entire proceedings as well as summoning order dated 12.04.2014 passed by the Chief Judicial Magistrate, Aligarh in Complaint Case No.222 of 2013, under Sections 323, 506, 392 IPC, Police Station - Khair, District Aligarh pending in the court of Chief Judicial Magistrate, Aligarh.

3. Preliminary objection has been raised by learned AGA that this is second application under Section 482 Cr.P.C. against the same proceeding. Earlier an Application U/S 482 Cr.P.C. No. 32731 of 2015 was rejected against the same proceeding, by this Court on merit vide order dated 28.08.2017. Therefore, second application under Section 482 Cr.P.C. on the same cause of action, is not maintainable.

4. Per contra, learned counsel for the applicant informs that second 482 Cr.P.C. application is maintainable on that ground which could not be raised in earlier application under Section 482 Cr.P.C.

5. In support of his contention, learned counsel for the applicant has relied upon the judgement of the Apex Court in **Anil Khadkiwala vs State (Government of NCT of Delhi) and another; 2019 Lawsuit SC 1388.**

6. I have perused the judgement produced by the counsel for the applicant. In the aforesaid judgement, Hon'ble Apex Court observed that under certain peculiar facts and circumstances, second 482 Cr.P.C. application against the same proceeding is maintainable when fresh cause of action arose because of that

circumstances.

7. In the present case, no fresh cause of action is arisen. Therefore, there is no peculiar fact and circumstance to entertain the second 482 Cr.P.C. application against the same proceeding which was already challenged before this Court and this Court declines to exercise his discretion.

8. In view of above, I do not find any merit in the case. This second 482 Cr.P.C. application is not maintainable against the same impugned proceeding.

9. Accordingly, the present application is **rejected**.

**Order Date :- 16.10.2023**

A.Kr.