

Court No. - 89

Case :- APPLICATION U/S 482 No. - 36300 of 2023

Applicant :- Ajay Kumar Agrawal And 2 Others

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

Counsel for Applicant :- Madhu Ranjan Pandey

Counsel for Opposite Party :- G.A.

Hon'ble Deepak Verma,J.

1. Heard learned counsel for the applicants and learned A.G.A. for the State.
2. This application under Section 482 Cr.P.C. has been filed by the applicants to quash the charge sheet dated 07.12.2021 as well as cognizance order dated 04.05.2023 and entire proceeding of Case No.261 of 2023, (State versus Ajay Kumar Agrawal and others), under Section 429 IPC, Case Crime No.585 of 2021, Police Station Subhash Nagar, District Bareilly, pending in the Court of Chief Small Cause Court, Bareilly.
3. Learned counsel for the applicants submitted that cognizance taken by learned Magistrate is abuse of process of Court. All the evidence collected during investigation prima-facie is not supporting the case. The allegation in the FIR is that the animals kept in supervision of Shamshan Bhumi Gaushala Committee, Bareilly were died due to non feeding. The said society is working to protect cow but the animals were not given proper feeding on account that they died. The committee was set up in pursuance of letter no.2522/37-01-2021, dated 12.11.21 issued by Deputy Secretary U.P. Sasan. Thereafter instant FIR has been lodged. Learned counsel for the applicant next submitted that earlier applicant no.3 challenged the FIR before this Hon'ble Court in

Criminal Misc. Writ Petition No.6256 of 2023. The Hon'ble Court vide order dated 24.04.2023, stayed the arrest of the applicant no.3, till submission of charge sheet. It is further submitted that as per death certificate of animals, it is evident that they are not died due to feeding. Charge sheet submitted against the applicants are not supported by evidence to prosecute in the present case.

4. Per contra, learned AGA opposed the submissions made by learned counsel for the applicants.

5. Considering the argument raised by counsel for the parties, perused the entire record. The submissions raised by learned counsel for the applicants are facts oriented and same cannot be considered and examined, at this stage. The medical report as well as death certificate and other evidence is required to examine and prima-facie on perusal of evidence enclosed herewith the affidavit, it cannot be said that no offence is made out against the applicants. No interference is warranted.

7. In view of the above, in the light of judgment of the Apex Court in the matters of **R.P. Kapur Vs. State of Punjab, A.I.R. 1960 S.C. 866, State of Haryana Vs. Bhajan Lal, 1992 SCC (Cr.) 426, State of Bihar Vs. P.P.Sharma, 1992 SCC (Cr.) 192 and lastly Zandu Pharmaceutical Works Ltd. Vs. Mohd. Saraful Haq and another (Para-10) 2005 SCC (Cr.) 283**, no ground for quashing the proceedings of the aforesaid case, is made out which may call for any interference by this Court in exercise of its inherent power under Section 482 Cr.P.C. as the same do not suffer from any illegality or infirmity.

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

9. However, it is directed that the applicant shall surrender before

the concerned court below within two weeks from today and in case they applies for bail, the bail applications of the applicants shall be disposed of expeditiously by the courts below in accordance with law and keeping in view the guidelines as laid down by the Apex Court in the case of **Satender Kumar Antil vs. Central Bureau of Investigation and another**, reported in 2021 SCC Online SC 922.

7. For the period of two weeks from today or till the time of surrender of the applicants before the concerned Court below, whichever is earlier, no coercive action shall be taken against the applicants in the aforesaid case.

Order Date :- 23.11.2023
I.A.Siddiqui