

Court No. - 92

Case :- APPLICATION U/S 482 No. - 39021 of 2023

Applicant :- Arvind Kumar And 5 Others

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

Counsel for Applicant :- Vishnu Shankar Mishra

Counsel for Opposite Party :- G.A.

Hon'ble Anish Kumar Gupta,J.

1. Heard Sri Vishnu Shankar Mishra, learned counsel for the applicants and Sri Prem Prakash Tiwari, learned A.G.A. for the State.

2. The instant application under Section 482 Cr.P.C. has been filed seeking quashing of the summoning/cognizance order dated 03.02.2023 in Complaint Case No.273 of 2022 (Chandrashekhar vs. Munnesh Kumar and Others) u/S 452, 323, 504, 506 I.P.C., P.S.- Eka, District- Firozabad, pending in the court of Additional District and Session Judge/Special Judge, POCSO Act, Court No.3, Firozabad.

3. Learned counsel for the applicant submits that the instant complaint filed by the opposite party no.2 is nothing but a counterblast to an F.I.R., registered by the applicant no.1 against the opposite party no.2 and his family members.

4. Learned counsel for the applicant further submits that a separate application u/s 482 No. 35704 of 2023 (Munnesh Kumar vs. State of U.P. and 3 Ors.) was filed by another co-accused herein. He has challenged his implications in the provisions of the POCSO Act whereas, the date of birth as per the High School Certificate of the victim was 05.06.2001 and the date of incident dated 16.01.2022. In view thereof, this Court has entertained petition and has passed an interim protection in favour of the co-accused, Munnesh Kumar. In view thereof, the applicants pray for quashing of the entire proceedings against the applicants herein as well.

5. Learned counsel for State submits that the applicants herein are not charged for the offences under the provisions of the POCSO Act. Therefore, the benefit granted to the co-accused Munnesh Kumar, cannot be given to the applicants herein. Learned counsel for State further submits that from the plain reading of the complaint as well as the statements recorded u/S 200 and 202 Cr.P.C., clear and categorical allegations have been

made and a prima facie cognizable offence has been made against the applicants herein. Therefore, there is no ground for interference by this Court.

6. Having heard the submissions made by learned counsels for the parties, this Court has carefully gone the record of the case, specifically, the application u/S 156(3) Cr.P.C., which was later converted as complaint case by the learned Magistrate. From the allegations made in the said complaint supported by the Statements u/S 200 and 202 Cr.P.C., prima facie a cognizable offence is made out against the applicants and police after due investigation has filed the charge-sheet and vide impugned order dated 03.02.2023, learned Magistrate has taken cognizance against the applicants herein for the offences u/S 452, 323, 504, 506 I.P.C., on the basis of the material available before the learned Magistrate.

7. In view thereof and in the considered opinion of this Court, there is no ground for interference in the impugned order as well as the charge-sheet.

8. Therefore, the instant application lacks merit and hereby ***dismissed.***

Order Date :- 28.11.2023

Shubham Arya