

Court No. - 89

Case :- APPLICATION U/S 482 No. - 38119 of 2023

Applicant :- Nawab Singh And 4 Others

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

Counsel for Applicant :- Rabindra Bahadur Singh

Counsel for Opposite Party :- G.A., Vijay Tripathi

Hon'ble Deepak Verma,J.

1. Heard learned counsel for the applicants, learned counsel for the opposite party no. 2 and learned A.G.A. for the State.
2. This application under Section 482 Cr.P.C. has been filed by the applicant to set aside the order dated 16.09.2023 passed by Additional Session Judge, Court No. 1st, Agra in Session Trial No. 434 of 2013 (State vs. Nawab Singh & Others), arising out of Case Crime No. 71 of 2013, under Sections 147, 148, 149, 307 & 302 IPC, Police Station- Fatehpur Seekari, District- Agra.
3. Learned counsel for the applicants submits that by order dated 16.09.2023, learned Additional Session Judge, Court No. 1, Agra rejected the application of applicants filed under Section 311 Cr.P.C. He next submits that order passed by learned Additional Session Judge is illegal and without application of judicial mind as he has not considered the requirement of examination of the witnesses. He further submits that on illegal consideration of facts, learned Additional Session Judge rejected the application of applicants.
4. Per contra, learned AGA as well as counsel for the opposite party no. 2 vehemently oppose the submissions made by counsel for the applicants and submit that applicants-accused to whom they want to examine as witnesses have already been discharged by the court to be produced as prosecution witnesses and instant application has been moved by the applicants only to delay the proceedings and case is fixed for statement of the accused under Section 313 Cr.P.C.
5. Considered the submissions of learned counsel for the parties and perused the entire record.
6. From perusal of the record, it is apparent that applicants had

moved an application to examine the witnesses, who have already been discharged by the prosecution and it is prerogative of the prosecution to whom he wants to produce as prosecution witness. The order passed by learned Additional Session Judge is just and proper and no interference is warranted by this Court.

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

Order Date :- 1.11.2023

Aditya