

**Court No. - 91**

**Case :-** APPLICATION U/S 482 No. - 38126 of 2023

**Applicant :-** Ranjeet Singh @ Rinku Singh And Another

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

**Counsel for Applicant :-** Amrendra Pratap Singh

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

**Hon'ble Gajendra Kumar,J.**

1. Heard learned counsel for the applicants and learned AGA for the State.
2. The present application u/s 482 Cr.P.C. has been filed by the applicants with the prayer to quash the charge sheet dated 27.08.2023 as well as the entire proceeding of Case No.11884 of 2019, arising out of Case Crime No.157 of 2018, under Section 3/5A/8 of the U.P. Prevention of Cow Slaughter Act and Section 11 of the Prevention of Cruelty to Animals Act, Police Station Dubauliya, District Basti.
3. Learned counsel for the applicants submits that initially an F.I.R. was lodged against the applicants for the offence under Section 3/5A/8 of the U.P. Prevention of Cow Slaughter Act and Section 11 of the Prevention of Cruelty to Animals Act. Further submission is that the Investigating Officer after completing the investigation, came to the conclusion that no offence under Section 3/5A/8 of the U.P. Prevention of Cow Slaughter Act is made out against the applicants and he resultantly submitted charge sheet only for the offence under Section 11 of the Prevention of Cruelty to Animals Act on which, cognizance was taken by the Magistrate concerned and the accused were summoned. Further submission is that the Investigating Officer filed an application u/s 173(8) Cr.P.C. for further investigation against the owner of the vehicle involved the

case and the application was disposed off by the Magistrate concerned without any specific order. Further submission is that the Investigating Officer has completed investigation and submitted charge sheet against the applicants for the offence under Section 11 of the Prevention of Cruelty to Animals Act and the learned Magistrate has taken cognizance thereon. The main contention of learned counsel for the applicants is that once the cognizance has been taken against the accused person for the offence under Section 11 of the Prevention of Cruelty to Animals Act, there was no occasion for filing charge sheet for the offence under Section 3/5A/8 of the U.P. Prevention of Cow Slaughter Act against the applicants because the prayer for further investigation was sought only against the owner of the vehicle and the Magistrate concerned in a mechanical way taken cognizance. No opinion has been expressed and the satisfaction recorded by the Magistrate regarding the differing with the opinion once formed by the Investigating Officer and the charge sheet submitted and later-on during further investigation, charge sheet has again been submitted for the offence under Section 3/5A/8 of the U.P. Prevention of Cow Slaughter Act. Further submission is that continuation of the entire criminal proceeding is nothing but an abuse of process of Court, which is liable to be set aside.

4. On the other hand, learned AGA has opposed the prayer but could not dispute the aforesaid facts.

5. Keeping in view the submission and contention made by the learned counsel for the parties, it is apparent that once the cognizance has been taken for the offence under Section 11 of the Prevention of Cruelty to Animals Act, there was no occasion for the Magistrate concerned to take again cognizance. The F.I.R. was lodged against the accused persons and charge sheet was submitted

only for the offence under Section 11 of the Prevention of Cruelty to Animals Act with the specific opinion formed by the Investigating Officer regarding no offence under Section 3/5A/8 of the U.P. Prevention of Cow Slaughter Act is made out against the applicants. Application for further investigation was filed seeking further investigation with regard to the owner of the vehicle as some evidence is forth coming against him but the learned Magistrate has disposed of the application and no specific order has been passed and further investigation was conducted and the Investigating Officer submitted charge sheet against the applicants excluding the owner of the vehicle against which the permission by court for further investigation was sought for and submitted charge sheet for the offence under Section 3/5A/8 of the U.P. Prevention of Cow Slaughter Act against the applicants and the learned Magistrate has taken cognizance mechanically. No specific reason has been assigned regarding the differing with the opinion already given by the Investigating Officer that no offence under Section 3/5A/8 of the U.P. Prevention of Cow Slaughter Act is made out against the applicants and what material has been collected on the basis of which, charge sheet has been submitted and the cognizance has been taken. The impugned order is passed without application of mind in a mechanical way and against the principles of law, which is not sustainable in the eye of law and the order is set aside with the direction to the court concerned to pass an order afresh in accordance with law.

6. In view of the such facts, the order dated 27.08.2023 is here by set aside.

7. Accordingly, the instant application u/s 482 Cr.P.C. is **disposed off**.

**Order Date :- 1.11.2023**

Sanjeet