

Court No. - 87

Case :- APPLICATION U/S 482 No. - 37562 of 2023

Applicant :- Arun Kumar Chaudhary

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

Counsel for Applicant :- Pramod Kumar Pandey

Counsel for Opposite Party :- G.A.

Hon'ble Neeraj Tiwari,J.

1. Heard learned counsel for the applicant and learned A.G.A. for the State.

2. Present 482 Cr.P.C. application has been filed seeking quashing of order dated 05.08.2023 passed in Criminal Revision No. 251 of 2022 and order dated 27.10.2022 passed in Criminal Misc. Application No. 639 of 2022(Arun Kumar Vs. Anoop Kumar), under Section 156(3) Cr.P.C., Police Station-Line Bazar, District-Jaunpur.

3. Learned counsel for the applicant submitted that after 3 to 4 years of marriage his parents, his father started living with another lady resulting into the borne of an illegitimate child, i.e. Anoop Kumar-opposite party No. 2. He next submitted that house in question is solely owned by the mother of applicant, but based upon preparation of forge land documents, opposite party No. 2 attempted for possession of the house in question. He next submitted that applicant filed application under Section 156(3) Cr.P.C., which was rejected vide order dated 27.10.2022. Against the said order, applicant preferred Criminal Revision No. 251 of 2022 and the same was also rejected vide order dated 05.08.2023. He next submitted that, since it is a property dispute, therefore, it is required on the part of the Courts to pass order for lodging FIR against opposite party No. 2. He next submitted that undisputedly, present dispute is regarding possession of house, therefore, orders dated 27.10.2022 as well as 05.08.2023 are bad and liable to be set aside and a direction may be issued for lodging FIR.

4. Learned A.G.A. opposed the submission of learned counsel for the applicant and submitted that earlier applicant has filed Criminal Misc. Writ Petition No. 17929 of 2022, in which proceeding was stayed on the ground that it was a civil dispute. He also submitted that undisputedly present criminal proceeding is

arising out of a civil dispute, therefore, not maintainable.

5. I have considered the rival submissions advances by learned counsel for the parties and perused the record.

6. It is not disputed by the applicant that there is civil dispute of property between the parties, therefore, in light of judgment of Apex Court in Criminal Appeal No. 932 of 2021 (**Randheer Singh Vs. the State of U.P. and Ors**), decided on 02.09.2021, Criminal Appeal No. 1285 of 2021(**Mitesh Kumar J Sha Vs. The State of Karnataka**), **Indian Oil Corpn. Vs. NEPC India Ltd.:** (2006) 6 SCC 736, **Usha Chkraborty Vs. State of West Bengal:** 2023 SCC Online SC 90, **Ramawtar Vs. State M.P.:(2022) 13 SCC 635 and B. Venkateswaran and Others Vs. P. Bakthavatchalam: AIR 2023 SC 262**, in civil dispute, criminal proceeding cannot be used as instrument to harass a person. Therefore, I found no illegality in the orders dated 27.10.2022 and 05.08.2023.

7. Application lacks merit and is accordingly **dismissed**.

8. No order as to costs.

Order Date :- 6.11.2023

ADY