

Court No. - 86

Case :- APPLICATION U/S 482 No. - 38068 of 2023

Applicant :- Yogendra Mohan @ Baba Tiwari And 6 Others

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

Counsel for Applicant :- Rakesh Kumar Rathore, Sanjeev Kumar

Counsel for Opposite Party :- G.A.

Hon'ble Rajiv Gupta, J.

1. Heard learned counsel for the applicants, learned AGA for the State and perused the record.
2. This application under Section 482 CrPC has been filed with the prayer to quash the charge-sheet dated 29.07.2023 and summoning order dated 22.08.2023 as well as entire proceedings of Case No. 2659 of 2023 (State Vs. Yogendra Mohan and Others), arising out of Case Crime No. 162 of 2023, under Sections 420, 467, 468, 471 IPC, Police Station Bichhawan, District Mainpuri, pending in the court of Additional Chief Judicial Magistrate-1st, Mainpuri.
3. As per the allegations made in the FIR, it is alleged that opposite party no.2 is the resident of Tahsil Bhongaon, District Mainpuri and his grandfather Patiram, son of Nekse was given lease of agricultural land bearing Plot No. 599, Area 2.50 Acre.
4. It is further alleged that the applicants, by hatching a conspiracy, got a fictitious sale deed executed on 19.12.2021 by impersonating some unknown person to be Patiram in the name of Smt. Sunita Tiwari, wife of Devendra Mohan and Smt. Yogesh Tiwari, wife of Gyanendra Mohan (applicant no.5) and surreptitiously got the said plot mutated in their names. On objection being filed by the opposite party no.2 before the Tehsildar, the said plot of land was again recorded in the name of his grandfather on 27.01.2023.
5. On the basis of the said allegations, an FIR was lodged and the police after concluding the investigation, submitted the charge-sheet against the applicants, on which, cognizance has been taken and the applicants have been summoned to face trial vide order dated 22.08.2023.
6. Being aggrieved and dissatisfied by the said order, the present application under Section 482 CrPC has been filed.
7. Learned counsel for the applicants has submitted that

from the allegations made in the FIR and the material collected during the course of investigation, no offence is disclosed against the applicants.

8. Learned counsel for the applicants has next submitted that allegations made in the FIR as well as in the statement of the witnesses are false and can not be relied upon. He has further submitted that even minor children has been made an accused in the instant case and therefore, the entire proceedings is liable to be quashed.

9. Learned counsel for the applicants has pointed out certain documents and statements in support of his contention and has further submitted that present criminal case has been instituted against the applicants with a malafide intention for the purpose of harassment and as such, impugned summoning order as well as entire proceedings is liable to be quashed.

10. Per contra, learned AGA has submitted that from the perusal of the allegations made in the FIR and the material collected during the course of investigation, prima facie offence is clearly made out against the applicants and as such, impugned summoning order and the entire proceedings cannot be quashed.

11. From the perusal of the material on record and looking into the facts of the case, at this stage it cannot be said that no offence is made out against the applicants. All the submissions made at the bar relate to the disputed questions of fact, which cannot be adjudicated upon by this Court under Section 482 Cr.P.C.

12. Moreover, it is submitted that two of the applicants are minor and as such, entire proceedings stands falsified and liable to be quashed is also untenable as on such grounds, the entire proceedings against the applicants can not be quashed in exercise of power under Section 482 CrPC.

13. It is further germane to mention here that at this stage, disputed question of fact cannot be considered, therefore, in view of the law laid down by the Hon'ble Apex Court in the cases of **R.P. Kapur Vs. State of Punjab, AIR 1960 SC 866**, **State of Haryana Vs. Bhajan Lal, 1992 SCC (Cri.) 426**, **State of Bihar Vs. P.P. Sharma, 1992 SCC (Cri.) 192** and **lastly Zandu Pharmaceutical Works Ltd. Vs. Mohd. Saraful Haq and another, (Para-10) 2005 SCC (Cri.) 283**, the prayer for quashing the charge-sheet, summoning order and entire proceedings is refused.

14. This application under Section 482 CrPC is accordingly **dismissed**.

Order Date :- 26.10.2023

Nadim