

Court No. - 91

Case :- APPLICATION U/S 482 No. - 37535 of 2023

Applicant :- Krishna Mohan Pathak

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

Counsel for Applicant :- Shashi Kant Dwivedi

Counsel for Opposite Party :- G.A.

Hon'ble Gajendra Kumar,J.

1. Heard learned counsel for the applicant and learned AGA for the State.

2. This application u/s 482 Cr.P.C. has been filed by the applicant with the prayer to impugned order dated 14.07.2023 as well as the entire proceeding of S.T. No.44 of 2004, under Section 302 IPC and Section 3(2)(5) of SC/ST Act, P.S. Madanpur, District Deoria.

3. Learned counsel for the applicant submits that an application was moved on behalf of the accused person for summoning record of the application for release of the vehicle involved in the case, which was allegedly driven by the deceased. Further submission is that the record of the application on which the alleged vehicle has been released in favour of the owner is relevant for the disposal of this case and the same is disclosed in the application. Further submission is that continuation of the aforesaid proceeding is nothing but an abuse of process of Court, which is liable to be quashed.

4. On the other hand, learned AGA has opposed the prayer and submitted that learned Additional Sessions Judge has appreciated every aspect of the application and after assigning the reason and discussion has passed the order, which is not illegal.

5. Keeping in view the submission and contention made by the learned counsel for the parties and from the perusal of the order dated 14.07.2023, it is apparent that at the stage of defence evidence, an application was moved on behalf of the accused person with the prayer that the vehicle involved in the case was released by the learned Magistrate vide order dated 31.08.1999 in favour of the so called owner be summoned, which was heard and decided by the court. Learned Additional Sessions Judge concerned has considered all the aspects of the relevancy of the proposed record and order has been passed. It is also apparent that learned Additional Sessions Judge concerned has found no relevancy of the proposed record as there is no issue involved in the case regarding the ownership of the vehicle and role of owner of the vehicle. The impugned order is well discussed and well reasoned one. No illegality or infirmity in the impugned order. No ground for interference in the order by way of invoking inherent power under Section 482 Cr.P.C.. Hence, the prayed made in the application is refused.

6. With the aforesaid observations, the present application u/s 482 Cr.P.C. is **dismissed**.

Order Date :- 28.11.2023
Sanjeet