

Court No. - 92

Case :- APPLICATION U/S 482 No. - 37781 of 2023

Applicant :- Amrish And Another

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

Counsel for Applicant :- Lavkush Kumar Bhatt

Counsel for Opposite Party :- G.A., Surendra Nath Yadav

Hon'ble Anish Kumar Gupta, J.

1. Heard Shri Vyas Kumar Prasad holding brief of Shri Lavkush Kumar Bhatt for the applicants, Shri Surendra Nath Yadav, learned counsel for the opposite party no. 2 and Shri Arvind Kumar, learned A.G.A. for the State.

2. The instant application under section 482 Cr.P.C. has been filed seeking quashing of the charge sheet dated 4.4.2023 as well as the entire proceedings of Criminal Case No. 1288 of 2023 (State Vs. Amrish and others) arising out of Case Crime No. 0082 of 2023 for the offences under section 323, 504, 506 324 and 325 I.P.C. police station Junavai District Sambhal pending the court of Judicial Magistrate, Gunnaur District Sambhal.

3. Learned counsel for the applicants submits that the opposite party no. 2 is the wife of brother of applicant no. 2 and there was ongoing property dispute between the brothers, namely, Rajesh and Sarvesh and due to the said property dispute which was of a purely civil nature, the instant F.I.R. has been lodged against the applicants by the wife of the brother of applicant no. 2. Therefore he prayed for quashing of the entire proceedings of the said case.

4. Per contra, learned counsel for the opposite party no. 2 submits that in the incident alleged in the F.I.R., the opposite party no. 2 has sustained various injuries and injury no. 1 was caused by a sharp edged weapon and the police authority after due investigation of the case and after recording the statements of the various witnesses have submitted the charge sheet against the applicant herein and subsequent thereto on the basis of the material available, the learned Magistrate has taken cognizance against the applicants herein. Therefore, there is no illegality in the charge sheet or the order of taking cognizance against the applicants herein.

5. Learned A.G.A. for the State supports the submissions made by the learned counsel for the opposite party no. 2 and submits that

from the injury report available on record it cannot be said that the incident has not taken place and prima facie a case against the applicants is made out.

6. Having heard the rival submissions of the learned counsel for the parties this court has carefully gone through the record and from the record it is apparent that on 28.2.2023 an F.I.R. was registered against the applicant by the opposite party no. 2 alleging that the opposite party no. 2 and her husband were present in their field when the applicants reached there and began abusing them when they objected then they have assaulted badly to the opposite party no. 2 and her husband . In such assault the opposite party no. 2 has sustained various injuries including the incised wound on the right wrist and the police after due investigation has submitted the charge sheet against the applicant after recording the statements of various witnesses on which the cognizance has been taken by the learned Magistrate.

7. In view of the aforesaid it cannot be said no incident as alleged by the opposite party no. 2 has ever taken place and no offence is made out against the applicants. Therefore, the instant application is devoid of merit and is hereby dismissed in the light of the judgement of the Apex Court in **R.P. Kapoor Vs. State of Punjab, AIR 1960 S.C. 866; State of Haryana Vs. Bhajan Lal, 1992 Supp (1) SCC 335:1992 SCC (Cri) 426 and Neeharika Infrastructure Pvt. Ltd. Vs. State of Maharashtra and others : 2021 SCC Online SC 315.**

Order Date :- 2.12.2023

o.k.