

Court No. - 91

Case :- APPLICATION U/S 482 No. - 38432 of 2023

Applicant :- Dharmendra @ Bhura And Another

Opposite Party :- State Of U.P. And 2 Others

Counsel for Applicant :- Ram Mohan

Counsel for Opposite Party :- G.A.

Hon'ble Gajendra Kumar,J.

Heard learned counsel for the applicants and learned A.G.A. for the State.

The instant application under Section 482 Cr. P.C. has been filed with a prayer to set aside the impugned order dated 25.08.2023 passed by learned Additional Sessions Judge/FTC, Court No.1, Mainpuri in Session Trial No. 207 of 2021 (State Vs. Dharmendra @ Bhura), arising out of Case Crime No. 125 of 2021, under Section 376D, 506 I.P.C., Police Station Ghiror, District Mainpuri.

It is contended by the learned counsel for the applicants that an application was moved before the trial court under Section 311 Cr. P.C. that certain question from 1 to 8 are to be put to the Investigating Officer, who has been examined as PW-III regarding C.D.R. collected by the Investigating Officer, which was brought on record after his examination. The aforesaid application was rejected by the trial court in a mechanical manner. It is further submitted that questions are necessary for the just decision of the case to put the Investigating Officer, a prayer has been made for giving an opportunity of hearing for the cross-examination with the Investigating Office as PW-III with regard to C.D.R.

Learned A.G.A. opposed the prayer and contended that from the impugned order, it is apparant that ample opportunity of hearing has been given, even application dated 29.05.2023 was filed on behalf of the accused for proving of the C.D.R. which was later on not pressed by the accused, and at the fag end of the case, this application has been moved only for the purpose of delaying tactics.

In view of the above, submission and contention of the rival

parties and from the impugned order, it is apparent that after hearing, the application moved by the accused under Section 311 Cr. P.C. for the cross-examination of the certain questions with the PW-III Investigating Officer regarding the C.D.R. Learned trial court has passed order, which is well discussed one. From the impugned order, it is apparent that ample opportunity of hearing has already been given to the accused person and even application dated 29.05.2023 was moved for proving of the C.D.R. by the Investigating Officer PW-III but the same was later on not pressed.

In view of the facts and circumstances of the case, there is no good ground to interfere with the order impugned and there is no illegality in the impugned order.

Accordingly, the application under Section 482 Cr. P.C. is ***dismissed.***

Order Date :- 30.11.2023/T.S.