

Court No. - 86

Case :- APPLICATION U/S 482 No. - 37928 of 2023

Applicant :- Rinku Shukla

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

Counsel for Applicant :- Anmol Tiwari

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. The present application under Section 482 Cr.P.C. has been filed for quashing the charge sheet dated 28.1.2022 and cognizance order dated 11.8.2023 as well as entire criminal proceedings of Case No. 13924 of 2023 (State Vs. Rinku Shukla and others) arising out of Case Crime No. 356 of 2021, under Sections 307, 504, 506 IPC, P.S. Mangalpur, District- Kanpur Dehat, pending in the Court of Addl. Chief Judicial Magistrate-1st, Kanpur Dehat.

3. Learned counsel for the applicant has submitted that the applicant is wholly innocent and has been falsely implicated in the present case due to ulterior motive. He has next submitted that civil dispute is pending between the parties and there is no medical report.

5. Learned counsel for the applicant has next submitted that from the perusal of the allegations made in the first information report and the material collected during the course of investigation, no offence is disclosed against the applicants and the present prosecution has been instituted with a malafide intention for the purposes of harassment. He has pointed out certain documents and statements in support of his contention and as such the entire criminal proceedings be quashed against the applicant.

6. Per contra, learned AGA has submitted that from the perusal of the allegations made in the first information report and the material collected during the course of investigation and the statement of the witnesses, prima facie, offence is clearly made out against the applicant.

7. Moreover, all the submissions made at the bar relates to the

disputed question of fact, which cannot be adjudicated upon by this Court under Section 482 CrPC. At this stage, only prima facie case is to be seen in the light 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 disputed defence of the accused cannot be considered at this stage.

8. Considering the rival submissions of counsel for the parties, I do not find any illegality or error in the impugned order passed by the court below. The impugned orders are just, proper and legal and do not call for any interference at this stage. The prayer for quashing the charge sheet, cognizance order as well as proceedings of the aforementioned case is refused.

9. The present application under Section 482 Cr.P.C. is devoid of merit and is accordingly dismissed.

Order Date :- 31.10.2023

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