

Court No. - 93

Case :- APPLICATION U/S 482 No. - 38386 of 2023

Applicant :- Anil Yadav And 3 Others

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

Counsel for Applicant :- Vipin Kumar Singh

Counsel for Opposite Party :- G.A.

Hon'ble Manoj Bajaj,J.

Applicants have filed this application under Section 482 Code of Criminal Procedure for quashing the charge sheet dated 19.2.2023 filed under Section 173(2) Cr.P.C., in Case Crime No. 379 of 2022, registered under Sections 323, 354-A, 504, 506 I.P.C. and Section 7/8 Protection of Children from Sexual Offences Act, 2012, Police Station Sarai Khwaja, District Jaunpur as well as the cognizance order dated 1.4.2023 passed by Special Judge, POCSO Act-I, Jaunpur in S.S.T. No. 81 of 2023 and the proceedings arising therefrom.

Learned counsel for applicants submits that complainant-opposite party no.2 has falsely implicated the applicants as their civil litigation is pending before the civil court. He submits that the parties are neighbors and in respect of the occurrence, applicants have also got registered a case against the opposite party no.2 and others at the instance of Meena Devi (wife of applicant no.2) bearing Case Crime No. 380 of 2022 dated 1.12.2022, under Sections 323, 504, 506, 354(ka)

and Section 7/8 Protection of Children from Sexual Offences Act, 2012. He submits that in the said case also, the final report stands filed under Section 173(2) Cr.P.C.

He further submits that the case registered at the instance of opposite party no.2 is nothing but an abuse of the process of law, therefore, applicants have invoked the inherent powers of this Court under Section 482 Cr.P.C. for quashing of the criminal proceedings arising out of Case Crime No. 379 of 2022 dated 1.12.2022.

In response, Sri Akhilesh, learned counsel representing the opposite party no.2 appears and submitted that the case was lodged by applicants as a counter blast to the impugned F.I.R. and the case filed by the accused persons in Case Crime No. 380 of 2022 is already under challenge before this Court through Application U/S 482 No. 32672 of 2023 (Nandlal Yadav and another VS. State of U.P. and another). He submits that this is not a fit case for exercise of inherent powers under Section 482 Cr.P.C., therefore, the application be dismissed.

During the course of hearing, it is not disputed by learned counsel for the parties that the charge sheet stands filed in both the cross cases and the same have not been considered by the trial court as charges against the respective accused persons are yet to be framed.

Upon hearing the learned counsel for parties and considering the above background, this Court finds that the nature of the offences in both the cases are against the human body and the parties have set up a rival case against each other, relating to the same occurrence, which means they have admitted the occurrence. The respective stand of the parties put forth before this Court cannot be adjudicated through this application under Section 482 Cr.P.C., as it would be ascertained by the trial court after examining the evidence that which party was aggressor, therefore, in the given facts, no interference is called for.

Resultantly, the application fails and is dismissed. However, it shall be open for the parties to raise all these issues and grounds before the trial court at an appropriate stage during trial.

Order Date :- 29.11.2023
P.S.Parihar