

Court No. - 93

Case :- APPLICATION U/S 482 No. - 38206 of 2023

Applicant :- Vishnu Gupta

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

Counsel for Applicant :- Virendra Singh Patel

Counsel for Opposite Party :- G.A.

Hon'ble Arun Kumar Singh Deshwal,J.

1. Heard Sri Virendra Kumar Jha holding brief of Sri Virendra Singh, learned counsel for the applicant and Sri Avanish Kumar Yadav, learned A.G.A. for the State.
2. The present application has been filed for quashing of the non bailable warrant dated 5.6.2023 passed in complaint case no.1382 of 2004 (Chandra Shah Vs. Rama Shankar and others), under Sections -323,504,506 IPC Police Station - Moth, District-Jhansi, passed by Judicial Magistrate, Moth, Jhansi and the entire proceedings arising there from be also quashed.
3. Contention of the Counsel for the applicant is that he has challenged the proceedings in complaint case no.1382 of 2004 before this Court by way of application under Section 482 bearing no.15142 of 2005 in which interim order was passed.
4. The court below has issued warrant on 26.3.2021 on the ground that the interim order in the aforesaid Criminal Misc. Stay Application was not extended for the last 6 months. Now NBW has been issued against the applicant on 5.6.2023 though the aforesaid application under Section 482 bearing no.15142 of 2005 is still pending before this Court.
5. When this Court checked the status of application under Section 482 bearing no.15142 of 2005, it is found that the above application under Section 482 Cr.P.C. has been decided/disposed of on merit by order dated 6.12.2019. When this Court asked the Counsel for incorrect statement then Counsel himself produced the copy of the order dated 6.12.2019.
6. This Court deprecates such practice on the part of the Counsel merely for the benefit of his client which is not acceptable.
7. Considering the aforesaid submission, the present application is disposed of with a direction that if the applicant surrenders and moves an application for bail before the court below within 3 weeks from today, then his application shall be considered in view of the law laid down in Satendra Kumar Antil vs. Central Bureau of Investigation and Another, (2021) 10 SCC 773.
8. For a period of three weeks or till disposal of the bail application, whichever is earlier, no coercive action shall be taken against the applicant.

Order Date :- 8.11.2023

Irshad