

Court No. - 92

Case :- APPLICATION U/S 482 No. - 38628 of 2023

Applicant :- Patil Harish Devidas

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

Counsel for Applicant :- Ramesh Chandra Tiwari

Counsel for Opposite Party :- G.A.

Hon'ble Anish Kumar Gupta,J.

1. Heard Sri Ramesh Chandra Tiwari, learned counsel for the applicant and Sri Pankaj Srivastava, 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 09.07.2018 as well as impugned summoning order dated 20.08.2018 in Case No. 7553 of 2018 (State vs. Patil Harish Devidas), arising out of Case Crime No. 232 of 2018 u/S 323, 504, 506, 354 ka and 419 I.P.C., P.S.- G.R.P. Allahabad (Prayagraj), District- Allahabad, pending in the court of learned Additional Chief Judicial Magistrate Railway, Allahabad.

3. On last occasion, dated 03.11.2023, learned counsel for the applicant submitted that in the instant case, the charge-sheet has been filed by the Police after investigation u/S 323, 504, 506, 354 ka and 419 I.P.C., whereas from the plain reading of the F.I.R., no offence u/S 419 I.P.C. was made out against the applicant herein. Learned counsel for the applicant further submitted that the instant application has been filed by the opposite party no.2 against the applicant on false and fabricated facts. Therefore, he has prayed for quashing of the cognizance/summoning order as well as the entire proceedings against the applicant herein.

4. Per contra, learned counsel for the State submits that the applicant herein was an Army man, who was entrusted with the duty to protect the people of the country, however, instead thereof he has committed the offences with the co-passengers in the train. The applicant was following and assaulting the opposite party no.2, in the train by levelling illicit comments against the opposite party no.2, and the applicant herein was caught by the G.R.P. on spot on the complaint made by the opposite party no.2. The opposite party no.2 or any police official had no enmity against the applicant to falsely implicate him in the instant case. So far as the offences u/S 419 I.P.C., is concerned, the learned counsel for the State, on the basis of the Case Diary, copy of

which has been produced today before this Court, has submitted that the applicant herein has disclosed the false address, which was investigated and report from the Pradhan of the village was obtained, which stated that no such persons of the given name is the resident of the said village. Therefore, by disclosing wrong address, the applicant has tried to mislead the investigation. Therefore, the offence u/S 419 I.P.C., was made out against the applicant, which was included in the charge-sheet against the applicant and learned Magistrate, after due consideration of the material available before him, has taken cognizance in the matter and has summoned the applicant herein in accordance with law. Therefore, there is no illegality either in the summoning order or in the proceedings against the applicant herein. Therefore, learned counsel for the State has submitted that no interference is called for in exercising the jurisdiction u/S 482 Cr.P.C.

5. Having heard the rival submissions made by learned counsel for the parties, this Court has carefully perused the record of the case and copy of the Case Diary produced by the learned A.G.A., today, before the Court, as per the order dated 03.11.2023. From the perusal of the record, it appears that the opposite party no.2 was traveling in the train wherein the applicant herein was also traveling and he was suffering with the co-passengers, made lewd remarks against the opposite party no.2 and tried to caught hold of her. When the opposite party no.2 ran towards different coaches of the train, the applicant herein had assaulted the opposite party no.2 and applicant, was drunk. The opposite party no.2 had given the information by Dialing 100 Number and at the Railway Station- Allahabad, the Police personnel came there and arrested the applicant herein. There was no motive for the opposite party no.2, who was totally unknown person to the applicant herein to falsely implicate the applicant herein and from the perusal of the Case Diary, it appears that the applicant has tried to mislead the Police by giving the false address. Therefore, the offence alleged against the applicant herein are prima facie made out against the applicant and the charge-sheet was filed after due and detailed investigation as is apparent from the perusal of the copy of Case Diary placed before the Court today. Accordingly, learned Magistrate has taken cognizance in accordance with law, on the basis of material available before him.

6. Therefore, in the considered opinion of this Court, there is no illegality in the cognizance/summoning order issued against the applicant herein. Therefore, the instant application is devoid of merits and is hereby ***dismissed***.

Order Date :- 7.11.2023

Shubham Arya