

Court No. - 92

Case :- APPLICATION U/S 482 No. - 38421 of 2023

Applicant :- Ram Narayan

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

Counsel for Applicant :- Akash Kumar Nishad, Anjani Kumar Singh

Counsel for Opposite Party :- G.A.

Hon'ble Anish Kumar Gupta, J.

1. Heard Sri Anjani Kumar Singh, learned counsel for the applicant and Sri Yogendra Singh, learned A.G.A. for the State.
2. The instant application has been filed seeking quashing of the charge-sheet dated 21-12-2021 and cognizance order dated 21-12-2022 as well as entire proceedings of Criminal Case No. 17299 of 2023 (State Vs. Ram Chandra and another), arising out of case crime no. 250 of 2023, under Sections 323, 504, 308 IPC, P.S. Bilhaur, district Kanpur Nagar, pending in the Court of Chief Judicial Magistrate, Kanpur Dehat.
3. Learned counsel for the applicant submits that the other co-accused Ram Chandra has already expired and the present F.I.R. has been lodged on 02-08-2021 by the opposite party no.2 as a counter-blast to the F.I.R. lodged by the wife of the applicant herein against the husband and other family members of the opposite party no.2 on 13-07-2021, therefore, the F.I.R. lodged by the opposite party no.2 is nothing but a counter-blast with a malafide intention, therefore the same is liable to be quashed in terms of the judgment of the Apex Court in ***State of Haryana v. Bhajan Lal, 1992 Supp (1) SCC 335.***
4. Per Contra, learned A.G.A. for the State submits that from the perusal of the F.I.R. in the instant case it appears that the opposite party no.2 has submitted its complaint on the same day i.e. 13-07-2021 itself and it is on the part of the police that the instant application was registered later on 02-08-2021, therefore, both the parties are alleging the incident of 13-07-2021 for trivial issue of grazing of goat and barking of dog, in which there was some scuffle and the opposite party no.2 had suffered a linear fracture in left parietal bone with soft tissue scalp injuries as per the medical report, therefore, which version of two F.I.Rs. is true cannot be decided while exercising the powers under Section 482 Cr.P.C.. Both the parties are not denying the incident as such, therefore, no interference is called for by this Court.

5. Having heard the rival submissions made by the learned counsel for the parties, this Court has carefully gone through the record of the case and from the perusal of the instant F.I.R. as well as lodged by the wife of the applicant herein, both the F.I.Rs. relating to the same incident of same date and time and with regard to grazing of goat and barking of dog and both the parties have assaulted each others for such a trivial issue and from the medical report as annexed at page 36 as annexure-2, the opposite party no.2 has sustained linear fracture in left parietal bone with soft tissue scalp injuries.

6. Hence, in the considered view of the Court, there is no illegality in the charge-sheet or in the summoning order, therefore, the instant application is devoid of merits and is accordingly **dismissed** in the light of judgments of Apex Court in **R. P. Kapoor Vs. State of Punjab, AIR 1960 S.C. 866; State of Haryana v. Bhajan Lal, 1992 Supp (1) SCC 335 : 1992 SCC (Cri) 426] and Neeharika Infrastructure Pvt. Ltd. vs. State of Maharashtra and Others : 2021 SCC OnLine SC 315.**

Order Date :- 9.11.2023

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