

Court No. - 92

Case :- APPLICATION U/S 482 No. - 39334 of 2023

Applicant :- Sheru @ Mohsim

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

Counsel for Applicant :- Mohd. Monis

Counsel for Opposite Party :- G.A.

Hon'ble Anish Kumar Gupta,J.

1. Heard Sri Mohd. Monis, learned counsel for the applicant and Sri Anish Kumar Upadhyay, learned AGA for the State.
2. The instant application under Section 482 Cr.P.C. has been filed seeking quashing of the charge sheet dated 27.05.2015 as well as cognizance / summoning order dated 23.05.2016 passed in Session Trial No. 891 of 2016 (State vs. Sheru @ Mohsim) arising out of Case Crime No. 0386 of 2014, under Sections 323, 324, 393, 452, 506 IPC, P.S. Phoolpur, District Allahabad, pending before the Additional Chief Judicial Magistrate, Court No.7, Allahabad.
3. Learned counsel for the applicant submits that the applicant has been falsely implicated in the instant case by the opposite party no.2 making general allegations against all the accused persons. Therefore, he has prayed for quashing of the entire proceedings against the applicant.
4. Per contra, learned AGA submits that the accused persons have committed cognizable and assaulted Sushil Kumar with the sharp edged weapon, due to which he had sustained serious injuries. Therefore, the police after due investigation has submitted the charge sheet, on which the cognizance has already been taken by the learned Magistrate. Therefore, from the facts of the case, there is no illegality in the charge sheet as well as the summoning order as the same are based on the evidence available before the investigating agency and the learned Magistrate. Therefore, no interference is called for by this Court in the instant case.
5. Having heard the rival submissions made by learned counsel for the parties, this Court has carefully perused the record of the case. From perusal of the FIR as well as the charge sheet and

summoning order, it is found that the cognizable offence has been committed by the accused persons and the applicant, in which the victims have suffered serious injuries and police after due investigation has submitted the charge sheet against them, upon which cognizance has been taken by the learned Magistrate on the basis of the material available before him. Therefore, it cannot be said that no offence as alleged against the applicant is made out. Therefore, there is no illegality in the charge sheet as well as in the cognizance taken by the learned Magistrate.

6. From the perusal of the F.I.R as well as the chargesheet and summoning order, it can't be said that no offence whatsoever is made out against the applicant herein. Therefore, no interference is required in exercise of power under Section 482 Cr.P.C., 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 :- 22.11.2023

Ashish Pd.