

Court No. - 88

Case :- APPLICATION U/S 482 No. - 39891 of 2023

Applicant :- Pintu

Opposite Party :- State Of U.P. And 4 Others

Counsel for Applicant :- A.C.Srivastava

Counsel for Opposite Party :- G.A.

Hon'ble Sanjay Kumar Singh,J.

Heard learned counsel for the applicant, learned A.G.A. for the State/ opposite party no.1 and perused the record.

The instant application under Section 482 Cr.P.C. has been preferred by the applicant seeking direction to the concerned Court below to conclude the trial of the accused persons in Complaint No. 49 of 2021 (Pintu Vs. Rahimuddin and others), under Sections 323, 504, 506 I.P.C. and Section 3(1) Dha (SC/ST) Act, pending in the Court of Additional Special Judge (S.C./S.T.) Act, Azamgarh expeditiously.

At the outset, learned A.G.A. pointed out that the applicant has not come with clean hands. He has suppressed the material facts that accused Rahimuddin Daroga/ opposite party no.2 has already filed an application under Section 482 Cr.P.C. No. 33875 of 2023 on 05.09.2023, in which following interim order was passed on 10.10.2023

"1. Heard learned counsel for the applicant, learned AGA and perused the record.

2. The present applicant have invoked the inherent power of this Court under Section 482 CrPC beseeching the quashing of entire criminal proceeding of Complaint Case No. 49 of 2021 (Pintu Vs. Rahimuddin Daroga & others), under Sections 323, 504, 506 IPC and 3 (1) DA, 3 (1) Gha, SC/ST Act, Police Station Nizamabad, District Azamgarh pending before Special Judge (SC/ST Act), Azamgarh.

3. It has been submitted that the present applicant being a police officer and Government servant has completed the proceeding under Section 151/107/116 CrPC with respect to the incident took place between two brothers namely Phool Chand and Mool Chand who are at

loggerheads on the parental property. The complainant, Pintu (Opposite Party No. 2) is son of Phool Chand, who has deliberately moved a complaint against some of the police personnel including the present applicant and all the family members of Mool Chand. It is further submitted that false and malicious prosecution has been instituted against the present applicant without getting prior permission as required under Section 197 CrPC, inasmuch as he has discharged his official duty on the date of submission of Chalani Report i.e. 24.5.2020. However, at a belated stage, the premeditated complaint has been filed on 16.3.2021 to exert undue pressure upon the present applicant. Learned Magistrate has issued summons against the present applicant without getting requisite sanction to initiate the criminal proceedings against the present applicant.

4. The matter requires consideration.

5. Opposite party No. 1 (State) is being represented through learned AGA.

6. Issue notice to opposite party No. 2 fixing 24.11.2023 as the date.

7. In the meantime, both the parties shall file their respective affidavits, if any.

8. Until further orders of this Court, the effect and operation of the summoning order dated 13.12.2021 passed by the Special Judge (SC/ST Act), Azamgarh in the aforementioned case shall remain stayed. "

On putting query about the aforesaid submission of learned A.G.A., the counsel for the applicant could not give satisfactory reply and tendered apology.

Having heard learned counsel for the applicant and learned A.G.A., I find that in the light of order dated 10.10.2023, the relief as sought for by means of this application cannot be granted.

In view of the above, the application lacks merit and is, accordingly, **dismissed**.

Order Date :- 8.12.2023

Anurag/-