

Court No. - 88

Case :- APPLICATION U/S 482 No. - 38729 of 2023

Applicant :- Amardeep @ Chhotey And 4 Others

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

Counsel for Applicant :- Hari Nath Chaubey

Counsel for Opposite Party :- G.A.

Hon'ble Vinod Diwakar,J.

1. Heard Shri Hari Nath Chaubey, learned counsel for the petitioners, learned A.G.A. for the State-respondent and perused the record.

2. The present application under Section 482 Cr.P.C. has been filed with a prayer to quash the impugned summoning order dated 14.08.2023 passed by Additional District and Sessions Judge/Special Judge (DAA), Kanpur Dehat, in Sessions Case (Complaint) No. 258 of 2022 (Ismail Raja Vs. Amardeep @ Chhotey and others), under Sections 323, 392, 504, 506 I.P.C., Police Station Rajpur, District Kanpur Dehat.

3. Shri Hari Nath Chaubey, learned counsel for the applicants, states that instant case is a counterblast to the FIR registered as Case Crime No. 73 of 2021, under Sections 506, 504, 323, 34 I.P.C., P.S. Rajpur, District Ramabai Nagar, wherein Ismail (opposite party no.2 herein), Monu, Ravi, Chand, Rafeek, Nigam, Ehsan, Sultan, Naseem, Qasim and Raza have been arrayed as accused persons. In essence, the argument put forth by the learned counsel for the applicants is that the summoning order in the instant case is a counterblast to the FIR registered by the applicants against opposite party no. 2 on 25.06.2021. He further contends that the instant case has been registered subsequent to the registration of the case by the applicants against opposite party no. 2 i.e. Ismail Raja. He submits that on perusal of the statements recorded by the police under Section 161 Cr.P.C., no offence under Sections 323, 392, 504, 506 I.P.C. are made out against the applicants, and no injury and recovery have been affected from the petitioners.

4. Learned counsel for the applicants also invited attention of the Court on the Statement of the witness Sandeep recorded under Section 202 Cr.P.C. wherein no date of incident is mentioned and,

therefore, the summoning order is defective and illegal.

5. *Per contra*, learned A.G.A. states that there are serious allegations against the applicants and on perusal of the statement of the victim and other witnesses, cognizable offence under Sections 323, 392, 504, 506 is made out and opposed the petition for quashing of criminal proceedings.

6. Counsel for the applicants relied upon a judgment dated 14.02.2023 passed by co-ordinate Bench of this Court in Rajmati Vs. State of U.P. and another (Application U/S 482 No. 42122 of 2022) and invited attention of this Court on para 16 of the judgment. The ratio of the judgment is not applicable to the facts and circumstances of the present case and is of no help to the applicants.

7. On perusal of statement recorded by I.O. under Section 161 Cr.P.C. and other incriminating material surfaced during investigation, *prima facie* shows involvement of applicant in commission of alleged offence at this stage. The counsel for applicant failed to bring its case with parameters of **State of Haryana and others Vs. Bhajan Lal and others, 1992 Supp. (1) SCC 335**. Additionally, no good ground has been made by the applicant warranting quashing of summoning order dated 14.08.2023. Therefore, the petition is devoid of merits, and is accordingly dismissed.

Order Date :- 24.11.2023

P.Sri.

(Vinod Diwakar,J.)