

Court No. - 89

Case :- APPLICATION U/S 482 No. - 38657 of 2023

Applicant :- Adesh Kumar Sharma

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

Counsel for Applicant :- Saurabh Shukla

Counsel for Opposite Party :- G.A.

Hon'ble Deepak Verma,J.

1. Heard learned counsel for the applicant and learned AGA for the State.
2. The present 482 Cr.P.C. application has been filed to quash the charge-sheet dated 28.09.2021, against the applicant under sections 147, 498-A, 504, 323 I.P.C., cognizance/summoning order dated 03.06.2022 as well as entire proceedings of Criminal Case No.5941 of 2022 arising out of Case Crime No.381 of 2021 (State vs. Adesh Sharma), under Sections 506 I.P.C. & 67 I.T.Act, PS Badalpur, District Gautam Buddh Nagar, pending in the Court of Ist Additional Chief Judicial Magistrate, Gautam Buddh Nagar.
3. Learned counsel for the applicant submits that the applicant is innocent and has been falsely implicated in the present case. Investigating Officer has not collected any evidence to prosecute the applicant in the present case. Statement of the victim recorded under section 161 Cr.P.C. is also not supported with the prosecution case. Cognizance taken by learned magistrate is without application of judicial mind and instant FIR has been lodged on account of prior dispute between the parties.
4. Learned A.G.A. has vehemently opposed the contention raised by learned counsel for the applicant and submitted that it is a disputed question of facts which cannot be examined at this stage.
5. Considered the arguments raised by learned counsel for the applicant and perused the entire records. From perusal of record, it cannot be said that no offence under Section 67 I.T. Act is made out. Submissions raised by learned by learned counsel for the applicant are disputed question of facts and sitting under 482 Cr.P.C. jurisdiction, this Court has no power to examine the facts.
6. In view of the above, in the light of judgment of the Apex Court in the matters of **R.P. Kapur Vs. State of Punjab, A.I.R. 1960 S.C. 866, State of Haryana Vs. Bhajan Lal, 1992 SCC (Cr.)**

426, State of Bihar Vs. P.P.Sharma, 1992 SCC (Cr.) 192 and lastly Zandu Pharmaceutical Works Ltd. Vs. Mohd. Saraful Haq and another (Para-10) 2005 SCC (Cr.) 283, no ground for quashing the proceedings of the aforesaid case, is made out which may call for any interference by this Court in exercise of its inherent power under Section 482 Cr.P.C. as the same do not suffer from any illegality or infirmity.

7. The present application under Section 482 Cr.P.C. lacks merit and is, accordingly, **dismissed**.

Order Date :- 18.10.2023

SKD