

Court No. - 89

Case :- APPLICATION U/S 482 No. - 38916 of 2023

Applicant :- Suhel Akhtar

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

Counsel for Applicant :- Satya Dheer Singh Jadaun

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 order dated 20.09.2023 passed by the learned Additional District and Sessions Judge, Court No. 10, Shahjahanpur in Sessions Trial No.546 of 2014 (State Vs. Firasat arising out of Case Crime No.623 of 2013, under Sections 120-B, 147, 302, 364 I.P.C., P.S. Sadar Bazar, District Shahjahanpur.
3. Counsel for the applicant submits that after closing the prosecution witnesses, applicant produced list of defence witnesses by Paper No. 89 Kha, thereafter, prosecution filed objection as Paper No. 89-kha and 90 kha. Counsel for the applicant submits that learned trial court without application of mind and without considering legal aspects, rejected the application of the applicant in illegal manner for producing the defence witnesses.
4. Considered the argument raised by counsel for the applicant and perused the entire record. The order dated 20.09.2023 has been passed by rejecting the application of the applicant on the ground that applicant has not provided address of the witness no. 1 and witness no. 4 who were residing in some other states. The learned Magistrate before rejecting the application of the applicant should have given opportunity to the applicant to provide the address of the defence witness but in arbitrary manner, without giving opportunity to the applicant to provide addresses of the defence witnesses nos. 1 and 4, rejected the application and has deprived the applicant to put its case on proper way. The procedure provides that after closing of prosecution witness, defence can give details of his witness to whom he wants to examine and the learned trial court shall consider the list of the defence witnesses. The order dated 20.09.2023 passed by the Additional District and Sessions Judge, Court No. 10, Shahjahanpur, is illegal, against the natural justice and abuse of the process of the court and is hereby, set aside with direction that if the applicant moves application before the trial court with list of defence witnesses with details, within a period of fifteen days, the trial court shall decide the same in accordance with law within a period of one month.
5. With the aforesaid direction, the application is **allowed**.

Order Date :- 19.10.2023

Meenu Singh