Court No. - 91

Case :- APPLICATION U/S 482 No. - 38934 of 2023

Applicant :- Usman Chaudhari And Another
Opposite Party :- State of U.P. and Another
Counsel for Applicant :- Daya Shanker Pandey
Counsel for Opposite Party :- G.A.

Hon'ble Gajendra Kumar,J.

1. Heard learned counsel for the applicants and learned A.G.A. for the State.

2. The present 482 Cr.P.C. application has been filed to quash the charge sheet dated 02.12.2022, summoning order dated 13.12.2022 in Case No. 3029 of 2022 (State Vs. Usman Chaudhari and another), arising out of Case Crime No. 510 of 2022, under Section 2/3 U.P. Gangster and Anti Social Actisvities (Prevention) Act, Police Station- Masoori, District- Ghaziabad, pending before Special Judge (Gangster Act)/ Additional District Judge, Court No.14, Ghaziabad.

3. It is submitted by learned counsel for the applicant that in the Gang Chart, three cases are cited to have been filed against the applicants in which proceedings have been quashed by co-ordinte Benches of this Court vide orders dated 13.10.2022, 2.11.2022, 12.12.2022.

4. He next submitted that the said orders of quashment has become final as no appeal has been filed against the said order in any court. He next submitted that in view of the fact that the orders for quashment has been passed by the co-ordinate Benches of this Court in favour of applicants in the aforesaid case, on the basis of which, the instant case under Section 2/3 U.P. Gangster Act has been registered against them. He next submitted that there is no occasion to continue criminal proceeding against the applicants under the provision of Section 2/3 U.P. Gangster Act and the same is liable to be set aside.

5. In support of his contention, learned counsel for the applicant placed reliance upon the judgment of this Court in Application U/s 482 No. 13444 of 2023 **(Praveen Vs. State of U.P. and another)**, decided on 09.10.2023.

6. Learned A.G.A. has vehemently opposed the submissions of learned counsel for the applicants, but could not dispute the fact that applicants have been booked in the present proceedings under Section 2/3 U.P. Gangster Act on the basis of three cases in Case Crime Nos. 790 of 2021, 818 of 2021 and 821 of 2021, in which the orders for quashment vide orders dated 12.12.2022, 2.11.2022 and 13.10.2022 respectively and no appeal has been preferred by the State against the said judgment and order of quashment.

7. I have considered the submissions made by learned counsel for the parties and perused the record.

8. Facts of the case are undisputed that applicants have been booked under Section 2/3 U.P. Gangster Act on the basis of three cases being Case Crime Nos. 790 of 2021, 818 of 2021 and 821 of 2021, in which the orders for quashment has been passed vide judgment and orders dated 12.12.2022, 2.11.2022 and 13.10.2022 respectively and no appeal has been filed against the said orders of quashment, therefore, present criminal proceeding is liable to be set aside.

9. I have also perused judgment of this Court passed in the matter of **Praveen (Supra)**. In the said judgment, Court has taken the very same view.

10. Therefore, once the cause of action for convicting the applicants under Section 2/3 U.P. Gangster Act is over, there is no occasion to continue criminal proceeding against the applicants under Section 2/3 U.P. Gangster Act.

11. Under such facts and circumstances of the case, application is **allowed.**

12. Aforesaid criminal proceeding against the applicants is hereby quashed.

13. No order as to costs.

Order Date :- 20.11.2023
Shiv

Digitally signed by :-
SHIV KUMAR SHARMA
High Court of Judicature at Allahabad