

**Court No. - 88**

**Case :-** APPLICATION U/S 482 No. - 39074 of 2023

**Applicant :-** Sanjeev Kumar And Another

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

**Counsel for Applicant :-** Kamesh Kumar Arya

**Counsel for Opposite Party :-** G.A.

**Hon'ble Sanjay Kumar Singh,J.**

1. Heard learned counsel for the applicants, learned Additional Government Advocate for the State of U.P./opposite party no.1 and perused the record.

2. This application under Section 482 Cr.P.C. has been preferred by the applicants, namely, Sanjeev Kumar and Sonu Yadav with a prayer to quash the order dated 27.09.2023 passed by Judicial Magistrate, Etah in Case No.1090 of 2020 (State v. Jugendra and others) arising out of Case Crime No.388 of 2009, under Sections 419, 420, 468, 471 I.P.C., Police Station Malawan, District Etah pending in the Court of Judicial Magistrate, District Etah.

3. Brief facts of the case are that the F.I.R. was lodged on 22.11.2009 and charge-sheet was submitted on 28.12.2009, on which the Magistrate concerned took cognizance on 08.01.2010 and summoned the applicants and other co-accused person to face trial. Thereafter, charge sheet dated 28.12.2009 was challenged by means of an Application u/s 482 Cr.P.C. No.5993 of 2010 (Khemkaran and others v. State of U.P. and another), which was disposed of vide order dated 13.12.2021 observing that in the event of surrendering and moving bail application by the applicants before competent

Court of Jurisdiction, the court below shall decide the same as expeditiously as possible in accordance with law, but the applicants did not comply the said order dated 13.12.2021 and without ensuring their appearance, they moved an application for discharge which has been rejected vide order dated 27.09.2023, which the subject matter of the challenge in the present application.

4. Learned counsel for the applicants submits that the discharge application of the applicants has not be decided by the trial court on merits, therefore, the order dated 27.09.2003 is liable to be quashed.

5. On the other hand, learned A.G.A. submits that the applicants, without complying the order dated 13.12.2021, has preferred discharge application, therefore, the same was not maintainable.

6. After having heard the arguments of learned counsel for the parties as noted above, I find that it is not in dispute that it is an old matter of the year 2009 and till date applicants did not ensure his appearance before the trial court and they are the playing hide and seek with the Court. I also find that the concerned court below while deciding the discharge application of the applicants has categorically recorded a finding that without ensuring the appearance by the accused persons, their discharge application is not maintainable, which is fully sustainable in the eye of law.

7. In view of the above, I do not find any illegality in the impugned order dated 27.09.2023.

8. The application lacks merit and is accordingly **dismissed**.

**Order Date :-** 21.11.2023/ A.N. Mishra