

Court No. - 87

Case :- APPLICATION U/S 482 No. - 39598 of 2023

Applicant :- Nikku@ Nigish

Opposite Party :- State Of U.P. And 3 Others

Counsel for Applicant :- Yogendra Pal Singh

Counsel for Opposite Party :- G.A.

Hon'ble Neeraj Tiwari,J.

Heard learned counsel for the applicant and learned A.G.A. for the State.

The present 482 Cr.P.C. application has been filed to quash the summoning order dated 28.7.2023 passed in Criminal Case No. 272 of 2023 (State vs. Nikku), arising out of case crime no. 345 of 2023, under Sections- 376, 506 I.P.C. and 3/4 of POCSO Act, Police Station- Nandgram, District- Ghaziabad.

The contention of learned counsel for the applicant is that no offence against the applicants is disclosed and the present prosecution has been instituted with a malafide intention for the purpose of causing harassment. He pointed out certain documents and statements in support of his contention. At this stage, the argument raised by learned counsel for the applicants involves factual disputes and appraisal of evidence.

From the perusal of the material on record and looking into the facts of the case at this stage it cannot be said that no offence is made out against the applicants. All the submissions made at the bar, relate to the disputed questions of fact, which cannot be adjudicated upon by this Court under Section 482 Cr.P.C. At this stage only prima facie case is to be seen in the light of the law laid down by Supreme Court in cases 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, Zandu Pharmaceutical Works Ltd. Vs. Mohd. Saraful Haq and another (Para-10) 2005 SCC (Cr.) 283 and lastly Amanullah and another Vs. State of Bihar and others, 2016(6) SCC 699, therefore, no case for interference is made out.

The prayer for quashing of the aforesaid proceeding is refused.

Accordingly, the application is dismissed.

Order Date :- 12.12.2023

Junaid