

Court No. - 89

Case :- APPLICATION U/S 482 No. - 39626 of 2023

Applicant :- Pushpendra @ Narad And 4 Others

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

Counsel for Applicant :- Narayan Singh(Kushwaha)

Counsel for Opposite Party :- G.A.

Hon'ble Deepak Verma,J.

1. Heard learned counsel for the applicants and learned A.G.A. for the State.
2. This application under Section 482 Cr.P.C. has been filed by the applicants with a prayer to decide the Sessions Case No. 908 of 2022 (State Vs. Pushpendra @ Narad and Others) arising out of the Case Crime No. 46 of 2022 under Sections 147, 148, 149, 323, 341, 307, 504, 506, 325, 326 I.P.C., P.S. Sakeet, District Etah against the applicants pending before the court of learned Additional Sessions Judge/F.T.C. Ist Etah, along with Cross Case as Criminal Case No. 5316 of 2022 (State Vs. Chhatrapal and Others) arising out of Case Crime No. 50 of 2022, under Sections 147, 148, 149, 452, 307, 323, 504, 506 I.P.C., P.S. Sakeet, District Etah, pending in the court of learned Chief Judicial Magistrate, Etah.
3. Counsel for the applicants submits that applicants and opposite party no. 2 lodged F.I.R. against each other. The opposite party no. 2 lodged F.I.R. against the applicant as Case Crime No.050/2022 on 28.4.2022 under Sections 147, 148, 149, 452, 307, 323, 504, 506 I.P.C., and applicants lodged F.I.R. against the opposite party no. 2 on 26.04.2022 as Case Crime No.0046/2022, under Sections 147, 148, 149, 307, 323, 341, 504, 506 I.P.C. He next submits that both the F.I.R. are cross case against each other and trial of both the cases tried together but in the trial court both the proceedings are running separately. He next submits that the Hon. Apex Court in **Nathilal Vs. State of U.P.** 1990 (supp.) SCC 145 has held that cross cases must be tried together by the trial court. He next submitted that Applicant's F.I.R. is tried as Sessions Case No. 908

of 2020 before the FTC Ist Etah. In Case Crime No. 50 of 2022, offence under Sections 323, 504, 506 I.P.C., accused has been summoned. Counsel for the applicant submits that both the cases should be tried together as incident is of the same date and two F.I.Rs. are registered as cross case, in view of the Hon. Apex Court judgement in Nathilal(supra).

4. Considered the argument and perused the record. From perusal of the record, it is apparent that both the FIR lodged by the parties are of the same incident and tried separately by the trial court. The Hon. Apex Court in **Nathilal** (supra) has observed thus:

"We think that the fair procedure to adopt in a matter like the present where there are cross cases, is to direct that the same learned Judge must try both the cross cases one after the other. After the recording of evidence in one case is completed, he must hear the arguments but he must reserve the judgment. Thereafter he must proceed to hear the cross case and after recording all the evidence he must hear the arguments but reserve the judgment in that case. The same learned Judge must thereafter dispose of the matters by two separate judgments. In deciding each of the cases, he can rely only on the evidence recorded in that particular case. The evidence recorded in the cross case cannot be looked into. Nor can the judge be influenced by whatever is argued in the cross case. Each case must be decided on the basis of the evidence which has been placed on record in that particular case without being influenced in any manner by the evidence or arguments urged in the cross case. But both the judgments must be pronounced by the same learned Judge one after the other."

5. In view of that the trial court is directed to try both the cases together in view of the law laid down by the Apex Court Nathilal(supra).

6. The application is disposed of with the above observation.

Order Date :- 28.10.2023

Meenu Singh