

Court No. - 92

Case :- APPLICATION U/S 482 No. - 39904 of 2023

Applicant :- Bundu Khan And 3 Others

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

Counsel for Applicant :- Akhilesh Srivastava, Saksham Srivastava

Counsel for Opposite Party :- G.A.

Hon'ble Anish Kumar Gupta, J.

1. Heard Sri Akhilesh Srivastava, learned counsel for the applicants and Sri Brijesh Kumar Dwivedi, learned A.G.A. for the State.

2. The instant application under Section 482 Cr.P.C. has been filed seeking quashing of the summoning order dated 27.07.2023 and entire criminal proceedings in Complaint Case No. 1304 of 2019 (Seema of U.P. vs. Bundu Khan and Others), u/S 323, 452, 504, 506 I.P.C., P.S.- Chharra, District- Aligarh, pending in the court of learned Judicial Magistrate, Court No.2, Aligarh.

3. Learned counsel for the applicants submits that there was a previous enmity between them. Earlier also, in the year 2019, both the parties had filed criminal cases against each other and to lay pressure in the said pending cases the opposite party no.2. has lodged the instant complaint case against applicants herein. Therefore, he has prayed for quashing of the entire proceedings against the applicants herein, being false, frivolous and fabricated.

4. Learned A.G.A for State, on the other hand, submits that the present incident as narrated in the instant complaint case is separate from the other incident, which has taken place earlier and since both the parties had filed criminal cases against each other, therefore, there was sufficient motive to the applicants to cause the alleged incident against the opposite party no.2 and her family members. In the statements of witnesses u/S 200 and 202 Cr.P.C., the witnesses have supported the incident and on the basis of the material available before the learned Magistrate, the learned Magistrate has found the *prima facie* case against the applicants. Therefore, in the instant case, the applicants herein have been summoned for the offences u/S 323, 452, 504 and 506 I.P.C., Therefore, there is no illegality in the summoning order against the applicants herein.

5. Having heard the submissions made by learned counsels for the parties, this Court has carefully gone through the record of the case. From the perusal of the complaint and the Statements u/S 200 and 202 Cr.P.c., the *prima facie* case is made out against the applicants herein and the pendency of earlier criminal cases against each other is a further motive of the applicants to cause the instant incident as alleged against the applicants and on the basis of the materiel available before the learned Magistrate, the Magistrate has summoned the applicants herein.

6. Therefore, there is no illegality in the summoning order, the instant application lacks merit and is hereby ***dismissed***.

Order Date :- 8.12.2023

Shubham Arya