

Court No. - 92

Case :- APPLICATION U/S 482 No. - 41671 of 2023

Applicant :- Shankar Pal @ Shankar Lal And 5 Others

Opposite Party :- State Of U.P. And Another

Counsel for Applicant :- Ramnath

Counsel for Opposite Party :- G.A.

Hon'ble Anish Kumar Gupta,J.

1. Heard Sri Ramnath, learned counsel for the applicants and Sri Padmakar Rai, learned A.G.A. for the State.

2. The instant application has been filed seeking quashing of Charge Sheet No.185 of 2020 dated 10.09.2020, whereby learned Judicial magistrate vide order dated 07.10.2020 taken cognizance in Case No.7272 of 2020, (State Vs. Shankar Pal and others), arising out of Case Crime No.175 of 2020, under Sections 147, 148, 452, 352, 354-Ka, 323 I.P.C., Police Station Chobepur, District Kanpur Nagar, pending before the Civil Judge (J.D.)/F.T.C. (Crime Against Women), Kanpur Dehat.

3. Learned counsel for the applicant submits that both the parties are family members and there is ongoing property dispute between them. Both the parties have filed cross case against each other, therefore, learned counsel for the applicants seeks quashing of summoning order as well as entire proceedings of Case No.7272 of 2020.

4. Per contra, learned A.G.A. for the State submits that both the parties have filed the cross case against each other, therefore, there is admission on the part of the applicants as well as opposite party no.2 with regard to the same incident which has been taken place between them. However, veracity of the allegations made by both the parties against each other cannot be decided in the proceedings under Section 482 Cr.P.C. before this Court. Learned A.G.A. further submits that after due investigation, charge sheet has been filed against the applicants and on the basis of material available before the learned Magistrate, cognizance has been taken against the applicants in the instant case, therefore, there is no illegality in the cognizance/summoning order passed in the instant case, therefore, learned A.G.A. submits that no interference is called for in the instant case.

5. Having heard the submissions made by learned counsel for the parties, this Court has carefully perused the record of the case and from perusal of record it is apparent that opposite party no.2 had filed an F.I.R. being Case Crime No.175 of 2020 against the applicants alleging the offence under Sections 147, 148, 452, 352, 354-Ka, 323 I.P.C. and for the same incident, son of applicant no.1 has also lodged an F.I.R. being Case Crime No.174 of 2020, under Sections 147, 148, 323, 504, 506, 352 I.P.C., therefore, both the parties have lodged the cross case against each other for the same incident, therefore, there is no denial on the part of the applicants that to the incident itself. The offences against the applicants involving the cognizable offences were duly investigated and after due investigation, the charge sheet has been filed and thereafter, learned Magistrate has taken cognizance in the instant case vide order dated 07.10.2020 and summoned the applicants herein. Therefore, in the considered opinion of this Court, there is no illegality in the charge sheet or the cognizance/summoning order against the applicants herein, which are passed on the basis of material available before the learned Magistrate. Therefore, in the light of judgment of Apex Court in ***State of Haryana and others Vs. Bhajan Lal and others, 1992 Supp. (1) SCC 335*** and ***M/s Neeharika Infrastructure Pvt. Ltd. Vs. State of Maharashtra, AIR 2021 SC 1918***, the instant application is devoid of merit and is hereby **dismissed**.

Order Date :- 6.12.2023

Atul