

Court No. - 86

Case :- APPLICATION U/S 482 No. - 40113 of 2023

Applicant :- Neelu And 8 Others

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

Counsel for Applicant :- Vivekanand Yadav, Vinay Kumar Jaiswal

Counsel for Opposite Party :- G.A.

Hon'ble Rajiv Gupta, J.

1. Heard learned counsel for the applicants and learned AGA for the State and perused the record.

2. The present application under Section 482 Cr.P.C. has been filed for quashing the entire proceeding of case no. 10720 of 2022, State Vs. Rambharose and others, arising out of case crime no. 0316 of 2019, under section 147, 186, 332, 336, 353, 504 I.P.C. and section 07 of Criminal Law Amendment Act. P.S. Tarkulwa, District Deoria, as well as charge sheet dated 21.8.2021 and order of cognizance and issuance of process dt. 2.7.2022 passed by Additional Civil Judge (Junior Division)/Judicial Magistrate, Court No. 22, Deoria.

3. As per the allegations made in the F.I.R and the statement of the witnesses recorded under section 161 Cr.P.C., it is alleged that on 24.12.2019, Sub-Divisional Magistrate, Sadar, District Deoria, alongwith revenue team had reached at the place of incident to resolve the land dispute between the parties. While the said party was making spot inspection, the applicants alongwith women folk reached at the place of incident and started assaulting the revenue team and the police part by hurling abuses. On being asked to refrain from carrying their illegal activities, the applicants started pelting stones to deter the public servant from discharging their duties. Consequent to which the S.D.M, Sadar, S.H.O, P.S. Tarkulwa, Revenue Inspector and other police personnel suffered

injuries who have been medically examined.

4. Learned counsel for the applicants has submitted that applicants are wholly innocent and have been falsely implicated in the present case due to ulterior motive.

5. Learned counsel for the applicants has next submitted that while passing the impugned cognizance order dated 2.7.2022, the court below has not applied his judicial mind and has passed the impugned order in a most casual and mechanical manner without application of mind.

6. Learned counsel for the applicants has next submitted that from the perusal of the allegations made in the F.I.R. and the material collected during the course of investigation, no offence is disclosed against the applicants and the present prosecution has been instituted with a malafide intention for the purposes of harassment. He has pointed out certain documents and statements in support of his contention.

7. Per contra, learned AGA has submitted that from the perusal of the allegations made in the F.I.R. and the material collected during the course of investigation and the statement of the witnesses recorded under Sections 161 Cr.P.C., prima facie, offence is clearly made out against the applicants.

8. Learned A.G.A. has further drawn attention of the Court to the injuries suffered by the S.D.M and police party and has submitted that looking to the serious injuries of the victims, prima facie, offence is clearly disclosed against the applicants.

9. Moreover, all the submissions made at the bar relates to the disputed question of fact, which cannot be adjudicated upon by this Court under Section 482 CrPC. At this stage, only prima facie case is to be seen in the light of the law laid down by the Hon'ble Apex Court in the cases of R.P. Kapur Vs. State of Punjab, AIR 1960 SC 866, State of Haryana Vs. Bhajan Lal, 1992 SCC (Cri.) 426, State of Bihar Vs.

P.P. Sharma, 1992 SCC (Cri.) 192 and lastly Zandu Pharmaceutical Works Ltd. Vs. Mohd. Saraful Haq and another, (Para-10) 2005 SCC (Cri.) 283. The disputed defence of the accused cannot be considered at this stage.

10. Considering the rival submissions of counsel for the parties, and taking into consideration the allegations made in the F.I.R. as well as the statement of the witnesses recorded under section 161 Cr.P.C. and looking to the injuries suffered by the victims who are government officials, prima facie, offence is clearly disclosed against the applicants. From perusal of the material on record and looking into the facts of the case at this stage it can not be said that no offence is made out against the applicants and a such the entire proceeding can not be quashed. The impugned order dated 2.7.2022 passed by the court below is just, proper and legal and do not call for any interference at this stage. The prayer for quashing the cognizance order as well as proceedings of the aforementioned case is refused.

11. The present application under Section 482 Cr.P.C. is devoid of merit and is accordingly dismissed.

Order Date :- 1.11.2023

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