

Court No. - 89

Case :- APPLICATION U/S 482 No. - 40155 of 2023

Applicant :- Surendra Singh @ Surendra Singh Chauhan And Another

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

Counsel for Applicant :- Sita Ram Sharma

Counsel for Opposite Party :- G.A.

Hon'ble Deepak Verma,J.

1. Heard learned counsel for the applicants; learned A.G.A. for the State and perused the record.
2. The present 482 Cr.P.C. application has been filed to quash the charge sheet dated 14.06.2023; cognizance order dated 30.08.2023 as well as entire proceedings of Case No.137887 of 2023 (State Vs. Surendra Singh Chauhan and another) under Sections 498-A 304 B I.P.C. and Section 3/4 D.P. Act, P.S. Panki, District Kanpur Nagar.
3. Counsel for the applicants submits that no offence against the applicants is disclosed and the present prosecution has been instituted with a malafide intention for the purposes of harassment. It has been next submitted that after three years of incident, charge sheet has been submitted against the applicants and applicants have no concern with the family affair of the opposite party no. 2 and deceased. The applicants are father-in-law and mother-in-law. There is no material evidence on record to implicate the applicants under the aforesaid sections. All the allegations are baseless and without support of any cogent evidence.
4. Learned A.G.A. vehemently opposed the prayer for quashing the proceedings of the aforesaid case and submitted that submission of the applicants is based on factual dispute. The trial court has to examine the same. This Court under Section 482 Cr.P.C. has no power to examine the factual dispute of the matter.
5. The Apex Court in the case of **Mohd. Allauddin Khan Vs. State of Bihar and others** reported in (2019) 6 SCC 107 has held in para No.14 as follows:-

"14. In our view, the High Court had no jurisdiction to appreciate the evidence of the proceedings under Section 482 of the Code Of Criminal Procedure, 1973 (for short "Cr.P.C.") because whether there are contradictions or/and inconsistencies in the statements of the witnesses is essentially an issue relating to appreciation of evidence and the same can be gone into by the Judicial Magistrate during trial when the entire evidence is adduced by the parties. That stage is yet to come in this case."

6. The Apex Court in **Priti Saraf and another Vs. State of NCT of Delhi and Another** reported in AIR 2021 SC 1531 has held that:

"To exercise powers under Section 482, complaint in its entirety have to be examined on basis of allegation made in complaint/FIR/Charge sheet. High Court at that stage not under an obligation to go into matter or examine its correctness. Whatever appears on face of complaint/FIR/charge sheet to be taken into consideration without any critical examination of same. Offence ought to appear ex facie on complaint/FIR/charge sheet and other documentary evidence, on record. It is thus settled that exercise of inherent power of High Court is an extraordinary power which has to be exercised with great care and circumspection before embarking to scrutinize complaint/FIR/charge sheet in deciding whether case is rarest of rare case, to scuttle prosecution at its inception. Whether the allegations in the complaint are otherwise correct or not, has to be decided on the basis of the evidence to be led during the course of trial. Simply because there is a remedy provided for breach of contract or arbitral proceedings initiated at the instance of the appellant, that does not by itself clothe the court to come to a conclusion that civil remedy is the only remedy, and the initiation of criminal proceedings, in any manner, will be an abuse of the process of the court for exercising inherent powers of the High Court under Section 482 Cr.P.C. for quashing such proceedings."

7. 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.

8. In view of the above, in the light of judgment of the Apex Court in the matters 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 and lastly Zandu Pharmaceutical Works Ltd. Vs. Mohd. Saraful Haq and another (Para-10) 2005 SCC (Cr.) 283**, no ground for quashing the proceedings of the aforesaid case, is made out which may call for any interference by this Court in exercise of its inherent power under Section 482 Cr.P.C.

9. The present application under Section 482 Cr.P.C. lacks merit and is, accordingly, dismissed.

Order Date :- 1.11.2023

Meenu Singh