

Court No. - 89

Case :- APPLICATION U/S 482 No. - 41146 of 2023

Applicant :- Rakesh Kumar

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

Counsel for Applicant :- Ajay Kumar Sharma

Counsel for Opposite Party :- G.A.

Hon'ble Deepak Verma,J.

1. Heard learned counsel for the applicant and learned A.G.A. for the State.

2. This application under Section 482 Cr.P.C. has been filed by the applicant to quash the order dated 03.05.2023 passed by Additional District Judge/Additional Session Judge (POCSO Act), Saharanpur and consequential proceedings of Complaint Case No. 1276 of 2021 (Ankur Vs. Rakesh Kumar), under Sections 323, 326, 504, 506 & 427 IPC, pending in the court of Special Chief Judicial Magistrate, Saharanpur.

3. Learned counsel for the applicant submits that on the complaint lodged by opposite party no. 2, learned Magistrate summoned the applicant under Sections 323, 324, 504, 506 & 427 IPC vide order dated 24.05.2022. Thereafter, opposite party no. 2 assailed the summoning order dated 24.05.2022 by filing a Revision No. 225 of 2022 and learned Revisional Court after considering the evidences and other documents available on record, converted the offence under Sections 323, 326, 504, 506, 427 IPC in place of under Sections 323, 324, 504, 506, 427 IPC. He next submits that the Revisional Court has exercised jurisdiction of the Trial Court and itself appreciated the evidence and summoned the applicant under Sections 323, 326, 504, 506, 427 IPC, which is not permissible in the eye of law.

4. Considered the submissions raised by counsel for the applicant and perused the entire record.

5. A perusal of the order dated 03.05.2023 passed by learned Revisional Court clearly indicates that the same is without jurisdiction as the Revisional Court has no jurisdiction to appreciate the evidence produced by the complainant as well as the witnesses recorded before the Trial Court and summoned the

applicant in the offence. Learned Revisional has exceeded his jurisdiction, which is liable to set aside.

6. In view of the above, the order dated 03.05.2023 passed by the learned Revisional Court is hereby set aside with the aforesaid observation.

7. The matter is remitted back to Additional District Judge/Additional Session Judge (POCSO Act), Court No. 14 Saharanpur to pass fresh order within a period of two months, from the date of production of certified copy of this order.

8. With these observations, this application under Section 482 Cr.P.C. is finally **disposed of**.

Order Date :- 16.12.2023

Aditya