

Court No. - 87

Case :- APPLICATION U/S 482 No. - 40988 of 2023

Applicant :- Sunil

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

Counsel for Applicant :- Sunil Kumar Dubey

Counsel for Opposite Party :- G.A.

Hon'ble Neeraj Tiwari,J.

1. Heard learned counsel for the applicant and learned A.G.A. for the State.
2. The present 482 Cr.P.C. application has been filed to quash the summoning order dated 14.06.2023 as well as the entire proceedings of Complaint Case No. 3550 of 2022 (Jitendra Vs. Sunil and others), under Sections- 323, 452, 504, 506 I.P.C., Police Station- Modi Nagar, District- Ghaziabad, pending in the court of Additional Chief Judicial Magistrate, Court No. 5, Ghaziabad.
3. Apart from many other grounds, learned counsel for the applicant submitted that in case, the version of complaint is treated to be correct, no case is made out under Section 452 I.P.C. as the same pertains to house trespass whereas incident took place in an open field.
4. Learned AGA could not dispute the aforesaid facts.
5. I have perused the complaint as well as record. From the perusal of complaint, it is apparently clear that incident took place in an open field and Section 452 I.P.C. provides for house trespass, therefore, no case is made out under Section 452 I.P.C.
6. Accordingly, summoning order dated 14.06.2023 is hereby quashed and the application is **allowed**. The matter is remanded back to learned Magistrate to pass fresh order strictly in accordance with law within a period of one month from the date of production of certified copy of this order.
7. No order as to costs.

Order Date :- 17.11.2023

Arvind