Court No. - 89

Case :- APPLICATION U/S 482 No. - 41140 of 2023
Applicant :- Robin
Opposite Party :- State Of U.P. And 3 Others
Counsel for Applicant :- Ankur Singh
Counsel for Opposite Party :- G.A.

Hon'ble Deepak Verma,J.

1. Heard Sri Ankur Singh, learned counsel for the applicant and learned AGA for the State.

2. The present 482 Cr.P.C. application has been filed to quash the order dated 26.10.2023 passed by Special Addl. District Judge (POCSO) Court, Muzaffarnagar in ST No.1238 of 2023, under Sections 363, 376(3) I.P.C. and Section 4(2) of POCSO Act, P.S. Purkaji, District Muzaffarnagar.

3. Counsel for the applicant submits that applicant has challenged the order dated 26.10.2023 passed by learned Special Additional District Judge, Muzaffarnagar rejecting application U/s 311 Cr.P.C. of the applicant. Order passed by Special Addl. District Judge is illegal and without application of judicial mind as applicant was not given opportunity to cross examine as statement of victim under Sections 161 and 164 Cr.P.C. are contrary and it is necessary to re-examine the victim for just decision of the case. FIR is delayed by six days. Applicant's counsel has not examined relevant facts by P.W. 1-victim. In support of his contention, applicant's counsel has placed reliance over the judgement passed by Division Bench of Delhi High Court in the case of Satbir Singh Vs. State of Haryana and others dated 29.08.2023.

4. *Per contra,* learned A.G.A. opposed the submission raised by applicant's counsel and submitted that applicant was given proper opportunity to examine the prosecution witnesses and defence examination has been closed.

5. Considering the argument raised by applicant's counsel, learned AGA and perused the record, it is evident that applicant was given ample opportunity to examine the prosecution witnesses and from the record it is apparent that counsel has examined the prosecution witnesses and proceedings under Section 311 Cr.P.C. is listed for hearing, as such, order passed by Special Additional District Judge, Muzaffarnagar dated 26.10.2023 is just and proper, hence, no interference is warranted, at this stage.

6. The present 482 application is **dismissed** with the aforesaid observation.

Order Date :- 7.11.2023
Nitin Verma

Digitally signed by :-
NITIN KUMAR VERMA
High Court of Judicature at Allahabad