

Court No. - 89

Case :- APPLICATION U/S 482 No. - 41929 of 2023

Applicant :- Sahban And Another

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

Counsel for Applicant :- Muhammad Azam, M J Akhtar

Counsel for Opposite Party :- G.A., Obaidur Rahman Khan, Saddam Husain

Hon'ble Deepak Verma, J.

1. Heard learned counsel for the applicants and learned AGA for the State.
2. The present 482 Cr.P.C. application has been filed to quash the charge sheet dated 08.08.2023, cognizance order as well as summoning order dated 29.08.2023 in Criminal Case No. 14221 of 2023 (State Vs. Subhan and others) arising out of Case Crime No. 86 of 2023 under Sections 376, 504, 506, 509 I.P.C., Police Station Parsamalik, District Maharajganj pending in the Court of learned Additional Civil Judge (S.D.)/ Additional Chief Judicial Magistrate, Maharajganj.
3. Counsel for the applicants submits that summoning order dated 29.08.2023 passed by the learned Magistrate is without application of judicial mind and same is liable to be set aside. It is next submitted that from the perusal of the contents of the statement recorded by the Investigating Officer as well as medical officer, no offence is made out against the applicants. It is submitted that applicants challenged the first information report before this Hon'ble Court and this Hon'ble Court has stayed the proceedings vide order dated 04.08.2023 till submission of the charge sheet. Till submission of the charge sheet, no offence under Sections 376, 504, 506, 509 I.P.C is liable to be set aside.
4. *Per contra*, learned A.G.A. submits that dispute in question based on the fact and same cannot be examined at this stage.
5. Considered the entire facts and circumstances of the case and submission raised by learned counsel for the applicants, the Investigating Officer has submitted the charge sheet after collecting the evidence during the investigation, shall be examined by the trial court.

6. 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. as the same do not suffer from any illegality or infirmity.

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

Order Date :- 16.11.2023

T.S.