

Court No. - 92

Case :- APPLICATION U/S 482 No. - 41656 of 2023

Applicant :- Nand Ram And 7 Others

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

Counsel for Applicant :- Nanhe Lal Tripathi

Counsel for Opposite Party :- G.A.

Hon'ble Anish Kumar Gupta,J.

1. Heard Sri Nanhe Lal Tripathi, learned counsel for the applicants and Sri Prem Prakash Tripathi, learned AGA for the State.

2. The instant application under Section 482 Cr.P.C. has been filed seeking quashing of the summoning order dated 16.08.2023 as well as the entire proceeding of Criminal Misc. No. 713 of 2021 (Veer Sing vs. Nandram and others), under Section 395 IPC, P.S. Kotwali Lalitpur, District Lalitpur, pending before the learned Additional District and Session Judge/Special Judge (U.P. Dacoity Affected Area), Lalitpur.

3. Learned counsel for the applicants submits that the instant complaint case has been lodged by the opposite party no.2 against the applicants herein as a counter blast to the complaint under Section 156(3) Cr.P.C. filed by the wife of the applicant no.1 against the opposite party no.2 and his family members. Learned counsel for the applicants further submits that there is a dispute with regard to some property for which Revenue Courts have decided in favour of the applicants, whereas the opposite party no.2 and his family members are trying to disregard the order of the Revenue Court and tried to interfere with the occupation of the land by the applicants. Learned counsel for the applicants further submits that in the complaint, it has been alleged that eight persons have assaulted the opposite party no.2 and his wife and son. However, there is no injury report of any of the victim as alleged in the complaint. Therefore, learned counsel for the applicants prays for quashing of the entire proceedings of the case.

4. Per contra, learned AGA for the State submits that the applicants have assaulted and snatched the jewellery and money from the opposite party no.2 and his wife by keeping the gun on the head of the wife of opposite party no.2 and have assaulted them. Therefore, from the material available before the learned Magistrate, a prima facie cognizable case is made

out against the applicants herein and on that basis the learned Magistrate vide order dated 16.08.2023 has summoned the applicants. Therefore, there is no illegality in the summoning order issued against the the applicants and the summoning order cannot be said to have been passed without any material.

5. Having heard the rival submissions made by learned counsel for the parties, this Court has carefully perused the record of the case. From perusal of the record, it is apparent that there is ongoing dispute of property between the parties. Earlier the wife of applicant no.1 had lodged a criminal case against the opposite party no.2 and his family members and subsequently the instant case has been filed against the applicants for the incident dated 09.10.2021. From the statements recorded under Sections 200 and 202 Cr.P.C., a prima facie case against the applicants is made out, on the basis of which the learned Trial Court has summoned the applicants herein for trial.

6. Therefore, no interference is required in exercise of power under Section 482 Cr.P.C. and the instant application is devoid of merits and is accordingly **dismissed** in the light of judgments of Apex Court in **R. P. Kapoor Vs. State of Punjab, AIR 1960 S.C. 866; State of Haryana v. Bhajan Lal, 1992 Supp (1) SCC 335 : 1992 SCC (Cri) 426] and Neeharika Infrastructure Pvt. Ltd. vs. State of Maharashtra and Others : 2021 SCC OnLine SC 315.**

Order Date :- 5.12.2023

Ashish Pd.