

Court No. - 92

Case :- APPLICATION U/S 482 No. - 41635 of 2023

Applicant :- Narendra Kushwah

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

Counsel for Applicant :- Kamalendra Kumar Maurya

Counsel for Opposite Party :- G.A.

Hon'ble Anish Kumar Gupta,J.

1. Heard Sri Kamalendra Kumar Maurya, learned counsel for the applicant and Sri Pankaj Srivastava, learned A.G.A. for the State.

2. The instant application has been filed seeking quashing of charge sheet dated 07.08.2020 and cognizance/summoning order dated 15.01.2021 as well as entire proceeding of Case No.169 of 2021 (State Vs. Narendra Kushwah), arising out of Case Crime No.209 of 2020, under Sections 323, 504, 506, 406 I.P.C., Police Station Malpura, District Agra, pending in the Court of Additional Chief Judicial Magistrate, Court No.1, Agra

3. Learned counsel for the applicant submits that there was a dispute between the parties with regard to commercial agreement for manufacturing of *Dona Pattal*, out of which some dispute had taken place on 09.06.2020, for which an F.I.R. was lodged on 20.06.2020 and subsequently the parties have settled the dispute by way of compromise between them from the intervention of eminent persons of society. Thereafter, the Investigating Officer concerned conducted the investigation and submitted the charge sheet on 07.08.2020. On which, cognizance has been taken by the Magistrate on 15.01.2022. He further submits that since it is a commercial dispute between the parties which has already been settled, the Investigating Officer has submitted the charge sheet and thereafter cognizance has been taken by the learned Magistrate against the applicant. Therefore, learned counsel for the applicant prays for quashing of the proceeding of the aforesaid case.

4. Per contra, learned A.G.A. for the State submits that the incident was reported immediately by calling 112 which is duly recorded in the F.I.R. by the I.O. Though, on record it appears that there was a settlement between the parties, however, the injuries were examined on the date of incident i.e. 09.06.2020 itself and subsequently, the F.I.R. was registered. After recording the statement of witnesses and on the basis injury

report and statement given by the witnesses a *prima facie* case was found against the applicant, therefore, charge sheet was filed, on which the cognizance was taken by the learned Magistrate on 15.01.2021 and the instant application has been filed by the applicant after more than two and half years.

5. Having heard the rival submissions made by learned counsel for the parties, this Court has carefully perused the record of the case and from perusal of record it appears that on 09.06.2020 itself the incident was reported to the police and the police has admitted the opposite party no.2 in the hospital where the medical examination was conducted and after the medical examination of victim - opposite party no.2, the instant F.I.R. was registered. Consequently, after due investigation of the case, charge sheet was filed and on the basis of material available before the learned Magistrate, the cognizance was taken by him on 15.01.2021, therefore, from the perusal of F.I.R. as well as the charge sheet and summoning order, *prima facie*, case is made out against the applicant.

6. In the considered opinion of this Court, there is no ground for interference in the said case by this Court, therefore, the instant applicant is devoid of merit and is hereby **dismissed** in the light of the judgment of the Apex Court in *Zandu Pharmaceutical Works Ltd. Vs. Mohd. Saraful Haque* reported in (2005) 1 SCC 122, *State of Haryana and others Vs. Bhajan Lal and others*, reported in 1992 Supp. (1) SCC 335 and *M/s Neeharika Infrastructure Pvt. Ltd. Vs. State of Maharashtra*, reported in AIR 2021 SC 1918.

Order Date :- 29.11.2023

Atul