Court No. - 91
Case :- APPLICATION U/S 482 No. - 41603 of 2023
Applicant :- Mohd Sonu And Another
Opposite Party :- State Of U.P. And Another
Counsel for Applicant :- Rajesh Kumar Singh
Counsel for Opposite Party :- G.A.

Hon'ble Gajendra Kumar,J.

1. Heard counsel for the applicants, learned A.G.A for the State and perused the record.

2. This application under Section 482 Cr.P.C. has been filed to quash the impugned order dated 12.10.2023 passed by Additional Session Judge, Court No.5, Varanasi in Session Trial No.280/2019 (State vs. Mohd. Sonu & another) arising out of Case Crime No.167 of 2018, under sections 307 I.P.C. & Section 3/5A/8 U.P. Prevention of Cow Slaughter Act & Section 11 Prevention of Cruelty to Animals Act, P.S. Mirzamurad, District Varanasi and direct the trial court to provide one opportunity to the applicants' counsel to cross-examine the P.W.4.

3. It is submitted by learned counsel for the applicants that on 19.5.2023, P.W. 4, Investigating Officer was examined but he could not be cross-examined by the counsel for the applicants. Prayer is made that one opportunity be given for cross-examination of the same.

4. On the other hand, learned A.G.A. has vehemently opposed the prayer and contended that the applicant is not cooperating with the court and opportunity was given and the same was not availed even after closing of the evidence. NBW was issued against him and on the request made by the applicant, the same was being cancelled and the statement under section 313 Cr.P.C. was recorded. Several dates were fixed for defense evidence and the

applicant is deliberately avoiding the cooperation with the proceedings.

5. In view of the submissions and contentions made by learned counsel for the parties and from perusal of the record, it is apparent that on 19.5.2023, chief examination the Investigating Officer, P.W. 4 was recorded and the case was fixed after lunch for cross-examination on which neither the applicants nor their counsel appeared and the opportunity given to the applicants was not availed. Resultantly, their opportunity for cross-examination was closed by the Court and the date was fixed for 2.6.2023. The prosecution made an endorsement to the effect that all the evidences have been adduced/ produced by the prosecution. There is no more evidence to be produced and the case was fixed for recording of the statement under section 313 Cr.P.C. but the applicant did not cooperate with the Court and first bailable warrant and then non-bailable warrant was issued against them and the several dates were fixed. NBW was cancelled and statement under section 313 Cr.P.C. was recorded. As per the statement made by learned counsel for the applicant that because of the call for strike and the condolence, no defense evidence could be produced but for the dated fixed 25.9.2023, there is no explanation why the defense evidence was not produced on the date fixed. From the perusal of the order-sheet, it is apparent that applicant is not cooperating with the prosecution of the case, no case is made out for invoking inherent jurisdiction under section 482 Cr.P.C.

6. With the aforesaid observations, the application stands **dismissed.**

Order Date :- 5.12.2023/ Shiv

Digitally signed by :-
SHIV KUMAR SHARMA
High Court of Judicature at Allahabad