

Court No. - 93

Case :- APPLICATION U/S 482 No. - 42601 of 2023

Applicant :- Nilesh Kushwaha

Opposite Party :- State Of U.P.And 3 Others

Counsel for Applicant :- Brijesh Kumar Mishra

Counsel for Opposite Party :- G.A.

Hon'ble Manoj Bajaj,J.

1. The applicant-complainant by means of this application under Section 482 Cr.P.C. has invoked the inherent powers of this Court with a prayer that a direction be issued to the trial court to decide his pending application dated 22.12.2022 seeking an opportunity of hearing for the purpose of framing of charge against the accused persons in Case No. 11119 of 2022 (State vs. Vinod Vishwakarma and another), arising out of Case Crime No. 0134 of 2022, under Sections 504 and 506 I.P.C., P.S. Bariyarpur, district-Deoria, pending in the court of Additional Civil Judge (J.D.) court no. 28, Deoria within the stipulated time.

2. Learned counsel for the applicant submits that on the basis of a complaint given by the applicant (complainant) a case bearing Case Crime No. 134 of 2022 was registered under sections 323, 304, 504 and 506 I.P.C., P.S. Bariyarpur, district-Deoria and after completion of investigation, the final report under Section 173(2) Cr.P.C. was filed on 22.8.2022 only under sections 504 and 506 I.P.C. He next submits that considering the final report submitted by the police, the trial court vide order dated 3.11.2022 proceeded to frame the charges against accused and, at that stage the complainant was not heard. He further submits that the approach adopted by the trial court is bad in law, therefore, a direction be issued to the trial court to afford an opportunity of hearing to the applicant.

3. Upon hearing the learned counsel for the applicant and considering his submissions, this Court finds that the charges against the accused were framed on

3.11.2022 and the case of the prosecution is based upon police report, therefore, it is evident that the complainant is effectively represented before the trial court. During the course of hearing, learned counsel for the applicant is unable to disclose the stage of the trial, as admittedly, the charges were framed more than a year back. Further there is nothing on record to show that the complainant ever appeared on 3.11.2022 to assist the State counsel at the stage of framing of charges, and his application is already pending for adjudication, therefore, this Court is not inclined to issue any direction in the absence of zimni orders passed by the trial court.

4. The petition is **dismissed**.

Order Date :- 22.11.2023

Faridul