

Court No. - 92

Case :- APPLICATION U/S 482 No. - 43032 of 2023

Applicant :- Ravindra Nath And Another

Opposite Party :- State of U.P.

Counsel for Applicant :- Rohit Kumar Singh

Counsel for Opposite Party :- G.A.

Hon'ble Anish Kumar Gupta,J.

1. Heard Sri Rohit Kumar Singh, learned counsel for the applicants and Sri Sandeep Choudhary, learned A.G.A. for the State.

2. The instant application under Section 482 Cr.P.C. has been filed seeking quashing of the proceedings in Criminal Misc. Case No. 25 of 2018 (State of U.P. vs. and Ravindra Nath and Another), arising out of Case Crime No. 78 of 2013 u/S 446 Cr.P.C., P.S.- Bharthana, District- Etawah, pending in the court of learned Additional District Judge, Court No. 5/NDPS Act, Etawah.

3. Learned counsel for the applicants submits that the applicants herein are the persons who stood as sureties to the bail granted to the accused, Ajay Kumar Prasad, in Special Criminal Case No.13 of 2013. Since the said accused, Ajay Kumar Prasad, after grant of bail, could not appear before the trial court concerned for the considerable time, then, Non-bailable Warrants (NBW) were issued against the said accused and subsequently on 22.04.2017, alongwith the NBW issued to the said accused, notices were also issued to the applicants herein, who appeared as sureties to the said accused. Subsequently, on 25.08.2018, since the accused did not appear despite the issuance of NBW and despite the issuance of notice against the applicants herein, separate proceedings being Criminal Misc. Case No. 25 of 2018, was initiated against the applicants herein u/S 446 Cr.P.C., and a fresh notice was issued to the applicants herein. On 13.09.2018, the concerned trial court recorded that the said notices were served on the applicants herein, on 13.09.2018. Learned counsel for the applicants submits that immediately after the service of notice of Criminal Misc. Case No. 25 of 2018 on the applicants, the applicants ensured the presence of the said accused persons in the said trial, against the accused and he surrendered immediately thereafter on 19.09.2018, before the trial court and the trial proceeded, which subsequently resulted in the acquittal of the said accused on

11.03.2019. However, since the applicants had discharged their obligation as sureties by ensuring the surrender of accused on 19.09.2018, they could not take care of the proceedings initiated against them by opening a separate proceedings in Criminal Misc. Case No. 25 of 2018, wherein the proceedings continued and recovery warrants etc. were issued against the applicants herein and the same is still pending and now the attachment order and recovery warrant has been issued against the applicants in the said proceedings. Learned counsel for the applicants submits that since the applicants have already discharged their obligation by ensuring the surrender of the accused in the main case and which ultimately has resulted in the acquittal of the main accused, therefore, their liability has already been discharged. Therefore, the said recovery warrants etc., now cannot be allowed to proceed against the applicants herein. Therefore, learned counsel for the applicants has prayed for quashing of entire proceedings of Criminal Misc. Case No. 25 of 2018.

4. Looking at the aforesaid facts and circumstances of the case, according to which after receipt of the notice in Criminal Misc. Case No. 25 of 2018, the applicants have discharged their obligation by making the accused to surrender before the trial court. Therefore, the further proceedings in the instant case ought not to have been proceeded. However, since these were the separate proceedings initiated in the instant case and none has appeared on behalf of the applicants to inform the said surrender of the accused before the trial court in the main case and the proceedings continue. Therefore, learned A.G.A. for the State do not object to the quashing of the proceedings of the instant criminal miscellaneous case against the applicants as their obligations has already been discharged.

5. Having heard the submissions made by learned counsels for the parties, this Court has considered the aforesaid facts and circumstances and submissions made by learned counsels for the parties and is of the considered view that since after the receipt of notice in Criminal Misc. Case No. 25 of 2018, the applicants have already discharged their obligation by making accused to surrender in the main trial within a week. Therefore, their obligation was already discharged by them. Therefore, further proceedings in the instant criminal miscellaneous case, which continued in ignorance of the aforesaid facts, were unwarranted against the applicants.

6. In view thereof, the instant application is **allowed** and the entire proceedings against the applicants in Criminal Misc. Case No. 25 of 2018 (State of U.P. vs. and Ravindra Nath and Another), arising out of Case Crime No. 78 of 2013 u/S 446

Cr.P.C., P.S.- Bharthana, District- Etawah, pending in the court of learned Additional District Judge, Court No. 5/NDPS Act, Etawah, are hereby ***quashed***.

Order Date :- 14.12.2023
Shubham Arya