

Court No. - 93

Case :- APPLICATION U/S 482 No. - 43899 of 2023

Applicant :- Baburam And 3 Others

Opposite Party :- State Of U.P. And 2 Others

Counsel for Applicant :- Sandeep Kumar Tripathi

Counsel for Opposite Party :- G.A.

Hon'ble Manoj Bajaj,J.

The applicants-accused have filed this petition under Section 482 Code of Criminal Procedure for quashing of chargesheet dated 3.2.2021 filed in Case No. 449 of 2020, titled State vs. Baburam and others, arising out of Case Crime No. 449 of 2020, under Sections 307, 324, 323 I.P.C., P.S. Meerganj, district Bareilly, as well as the proceedings arising there from.

The above F.I.R. was registered on the basis of a complaint given by Rajesh Kumar-opposite party no. 2, wherein it is alleged that on 21.12.2020 when they were working in their fields near the riverbank of Gangas, Babu Ram, Harish, Tularam and Nandram came there and attacked him and his father Keshav Dutt (opposite party no. 3) with sharp edge weapons, causing serious injuries to Keshav Dutt. Upon hearing the noise Ramveer son of Sukh Lal arrived at the spot and rescued them. On these broad allegations, the above first information report was lodged for alleged commission of offences punishable under Sections 307 and 324 I.P.C. After completion of investigation in the above F.I.R. a final report under Section 173(2) Cr.P.C. was filed on 3.2.2021.

Learned counsel for the applicant submits that in the above case applicant was granted concession of pre arrest, vide order dated 22.1.2021, but the final report has been filed without carrying the investigation in a proper manner. He further submits that the applicants have no history of criminal cases and police has acted in a malafide manner to falsely implicate him. He submits that the prosecution of the

applicant is nothing but an abuse of process of law, therefore, they have approached this Court for quashing of the above mentioned criminal proceedings.

After hearing learned counsel for the applicants and considering the submissions, this Court finds that according to prosecution the applicants-accused were involved in the commission of offences against human body as they caused injuries to the victims and during investigation the medico legal examination of the injured, namely Keshav Dutt-opposite party no. 3 and Rajesh-opposite party no. 2 is appended with the petition as Annexure-2. A perusal of the same would show that the injured has suffered multiple injuries on the vital part of the body, including head and the complainant has specifically named the assailants in the impugned F.I.R.

During the course of hearing, learned counsel has stated that the final report dated 3.2.2021 is pending consideration before the trial court, therefore, at this stage, this Court does not deem it appropriate to exercise the inherent powers under Section 482 Cr.P.C.

In view of the above background of the case as well as law laid down by Hon'ble Supreme Court in the case of ***Dharmatma Singh vs. Harminder Singh & Ors. reported in Criminal Appeal No.1126 of 2011 (3) RCR Criminal 38***, this Court does not find it to be a fit case for exercise of inherent powers under Section 482 CrPC. However, it shall be open for the applicants to raise all the grounds pleaded in this application, before the Magistrate at an appropriate stage.

The petition is dismissed.

Order Date :- 1.12.2023
Faridul