

Court No. - 93

Case :- APPLICATION U/S 482 No. - 42598 of 2023

Applicant :- Mahendra Pratap Singh And 6 Others

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

Counsel for Applicant :- Sujit Kumar Agrawal

Counsel for Opposite Party :- G.A.

Hon'ble Manoj Bajaj,J.

Applicants being accused have approached this Court through this application under Section 482 Code of Criminal Procedure seeking quashing of the proceedings of Compliant Case No. 59 of 2023, titled *Jagmohan @ Jawar Vs. Mahendra Pratap Singh and others*, under Section 323 I.P.C., Police Station C.B. Ganj, District Bareilly as well as the summoning order dated 5.7.2023 passed by Additional Chief Judicial Magistrate, Court No.3, Bareilly.

Learned counsel for applicants submits that on 16.2.2022 the opposite party no.2/complainant caused injuries to the applicants over a dispute relating to a land, which is in possession of the applicants and this occurrence dated 16.2.2022 led to registration of Case Crime No. 76 of 2022, under Sections 323, 504, 324, 308, 436 I.P.C. and Sections 3(1)(Da), 3(1)(Dha), 3(2)(V) Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989. He submits that in the said case, the investigation is complete and even the case has been committed to the court of sessions for trial. He

further submits that in retaliation to the above Case Crime No. 76 of 2022, the accused has brought a private complaint bearing Case No. 59 of 2023 accusing the applicants for causing injuries punishable under Section 323 I.P.C. He submits that on the basis of the said complaint and evidence on record, the Magistrate has issued process through impugned order dated 5.7.2023. He submits that complaint case brought by the opposite party no.2 is apparently an abuse of the process of law, therefore, the interference by this Court is warranted by way of exercising the powers under Section 482 Cr.P.C.

During the course of hearing, it is fairly stated by learned counsel for applicants that complaint brought by opposite party no.2 is also based upon the same occurrence, which is the subject matter of Case Crime No. 79 of 2022. However, according to him, in the said occurrence, no injuries were suffered by the opposite party no.2 and his claim is not supported with any medical evidence. He prays that the impugned complaint, summoning order and the proceedings arising out of it be quashed in the interest of justice.

Upon hearing the learned counsel for the applicants and considering the material on record as well as his submissions, this Court finds that the F.I.R. case as well as the complaint case are based upon a common occurrence and the parties have portrayed their rival versions against each other. Since the

opposite party no.2 has also admitted the occurrence and the proceedings in the F.I.R. case is pending, therefore, at this stage, it would not be appropriate for this Court to accept the stand of the applicants that the complaint is filed with *mala fide* intentions. The issues raised in this application can only be effectively decided on the strength of the evidence, which is yet to be adduced by the parties.

Thus, this Court does not find it to be a fit for exercise of inherent powers under Section 482 Cr.P.C.

The application is dismissed.

Order Date :- 22.11.2023
P.S.Parihar