

Court No. - 89

Case :- APPLICATION U/S 482 No. - 42556 of 2023

Applicant :- Aman And Another

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

Counsel for Applicant :- Amit Pathak

Counsel for Opposite Party :- G.A.

Hon'ble Deepak Verma,J.

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

2. This application under Section 482 Cr.P.C. has been filed by the applicants to quash the summoning order dated 21.08.2023 passed by Special Judge (POCSO Act)/Additional Session Judge, Court No. 13, Saharanpur as well as entire proceedings of Special Session Trial No. 980 of 2022 (Reshma vs. Aman), under Section 354 IPC, 9/10 POCSO Act and 3(2)5A of SC/ST Act against the applicant no. 1 and under Section 504 IPC & 3(1)Da, Dha of SC/ST Act against the applicant no. 2, Police Station- Rampur Maniharan, District- Saharanpur, pending in the court of Special Judge (POCSO Act)/Additional Session Judge, Court No. 13, Saharanpur.

3. Learned counsel for the applicants submits that allegations in the complaint are that applicants are involved in molesting the minor daughter of the complainant. He next submits that all allegations against the applicants are malicious prosecution in counterblast as earlier applicants lodged first information report against the opposite party no. 2. He next submits that only to harass the applicants, the instant complaint has been lodged. He next submits that there is no cogent evidence to prosecute the applicants in the present case. He next submits that summoning by the learned Magistrate is without application of judicial mind. He next submits that both the parties belong to SC/ST category and summoning by learned Magistrate under SC/ST AC is illegal and liable to be set aside.

4. Per contra, learned AGA opposes the submissions made by counsel for the applicants and submits that submissions raised by counsel for the applicants are disputed questions of fact, which cannot be examined at this stage.

5. Considered the arguments raised by learned counsel for the applicants and perused the entire records. Submissions raised by learned counsel for the applicants are disputed questions of fact and sitting under 482 Cr.P.C. jurisdiction, this Court has no power to examine the facts. On perusal of complaint, prima facie, it cannot be said that no offence is made out against the applicants.

6. In view of the above, in the light of judgment of the Apex Court in the matters of **R.P. Kapur Vs. State of Punjab, A.I.R. 1960 S.C. 866, State of Haryana Vs. Bhajan Lal, 1992 SCC (Cr.) 426, State of Bihar Vs. P.P.Sharma, 1992 SCC (Cr.) 192 and lastly Zandu Pharmaceutical Works Ltd. Vs. Mohd. Saraful Haq and another (Para-10) 2005 SCC (Cr.) 283**, no ground for quashing the proceedings of the aforesaid case, is made out which may call for any interference by this Court in exercise of its inherent power under Section 482 Cr.P.C. as the same do not suffer from any illegality or infirmity.

7. The present application under Section 482 Cr.P.C. lacks merit and is, accordingly, **dismissed**.

8. However, if applicants surrender before the concerned court within two weeks from today and apply for bail, their bail applications shall be decided expeditiously by the court concerned, in accordance with law.

9. For the period of two weeks from today or till the time of surrender of the applicants before the Court below, whichever is earlier, no coercive action shall be taken against them.

Order Date :- 22.11.2023

Aditya