

Court No. - 93

Case :- APPLICATION U/S 482 No. - 42539 of 2023

Applicant :- Mahendra And Another

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

Counsel for Applicant :- Om Narayan Pandey

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 non bailable warrant dated 27.6.2022 passed by Judicial Magistrate-IIIrd, Shahjahanpur in Complaint Case No. 1824 of 2014, titled *Anuj Shankar Tiwari Vs. Mahendra and another*, under Sections 452, 323, 504 I.P.C., Police Station R.C.M., District Shahjahanpur.

Learned counsel for applicants has submitted that a complaint brought by complainant-opposite party no.2 for alleged commission of offences punishable under Sections 452, 323, 504 I.P.C. The applicants-accused persons had appeared and they were extended the concession of regular bail vide order dated 29.10.2015. According to him, thereafter, they continued to appear before the trial court regularly on each and every date of hearing, but due to breakout of pandemic Covid-19 they did not appear and the case proceedings remained pending. He submits that since the applicants were not aware of the case proceedings, and were not issued any notice,

therefore, they did not appear before the trial court, and on 27.6.2022 the trial court passed the impugned order issuing non bailable warrants against them to secure their presence. He further submits that in a similar manner, their son, who is a co-accused of the applicants was arrested and it was at that stage, applicants came to learn about the issuance of non bailable warrants against them. He prays that the impugned order dated 27.6.2022 be set aside.

During the course of hearing, it is fairly stated by learned counsel for applicants that warrants issued on 27.6.2022 were never executed and subsequently, the Court continued to pass on similar orders, but none of those orders have been put under challenge.

Upon hearing the learned counsel for applicants and considering the submissions, this Court finds that the applicants were well aware of the pendency of criminal proceedings against them as they were on regular bail. They had already furnished their undertaking through the bonds furnished at that stage that they will continue to appear before the court on each and every date of hearing. The submission based upon breakout of pandemic Covid-19 and the unusual conditions faced by this nation did not continue for a long time. It was incumbent for the applicants to join the trial proceedings on their own.

Therefore, considering their conduct as well as the

long delay in challenging the impugned order, which otherwise has lost its significance, this Court is not inclined to exercise inherent powers under Section 482 Cr.P.C.

The application is dismissed.

Order Date :- 22.11.2023
P.S.Parihar