

Court No. - 92

Case :- APPLICATION U/S 482 No. - 42881 of 2023

Applicant :- Ashish Kumar Shukla

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

Counsel for Applicant :- Kanhaiya Lal Tiwari

Counsel for Opposite Party :- G.A.

Hon'ble Anish Kumar Gupta,J.

1. Heard Sri Sandeep Kumar Pandey, Advocate holding brief of Sri Kanhaiya Lal Tiwari, learned counsel for the applicant and Sri Anish Kumar Upadhyay, learned A.G.A. for the State.

2. The instant application under Section 482 Cr.P.C. has been filed seeking quashing of order dated 19.10.2023 passed by Sessions Judge, Basti in Criminal Revision No.40 of 2023 and order dated 10.01.2023 passed by Judicial Magistrate 6th, Court Room No.19, Basti in Complaint Case No.7625 of 2021 (Ashish Kumar Vs. Dr. Soma Sa Gupta), under Section 203 Cr.P.C., Police Station Kotwali, District Basti.

3. Learned counsel for the applicant submits that the wife of the applicant was pregnant and she was admitted in the Krishna Mission Hospital, Bargadwa, Dwarika Road, Basti on 27.07.2020. The allegation by the applicant is that the doctors after examining the wife of applicant, have opined that it is delivery time and there will be some difficulty in the normal delivery and she will be required to be operated. The allegation is that he has deposited the amount for operation, but instead of conducting operation, the normal delivery was conducted, therefore, the condition of wife of the applicant became critical then she was referred to Gorakhpur and the applicant took his wife to Gorakhpur where she was admitted in I.C.U. and thereafter she died on 28.07.2020 at 12.00 p.m. Learned counsel for the applicant further submits that he has deposited the amount for operation of her wife, however, no operation was conducted and normal delivery was made by opposite party nos.2 and 3, therefore, they have been negligent in their conduct.

4. Learned counsel for the applicant had filed a complaint on 17.09.2020 against the opposite party nos.2 and 3, which was rejected under Section 203 Cr.P.C. vide order dated 10.01.2023 by

the Judicial Magistrate-VI, Court No.19, Basti holding that the applicant has failed to produce any document to show that he has deposited the amount for operation. Therefore, for want of any evidence for depositing of amount, no offence, *prima facie*, is made out against the opposite party nos.2 and 3 and the complaint was dismissed. Against the order dated 10.01.2023, the applicant has approached the Sessions Judge, Basti by way of Criminal Revision No.40 of 2023, which was also dismissed vide order dated 19.10.2023. Learned Sessions Judge, Basti found that no amount for operation of wife of applicant was deposited by the applicant, therefore, the doctors have conducted the normal delivery, there was only consent for treatment and as per statement of the applicant himself under Section 200 Cr.P.C. it is stated that Rs.3,000/- was deposited by him and doctors have asked for Rs.22,000/- for operation which was not deposited by the applicant otherwise also from the enquiry report received, it has come on record that the applicant himself was pressurizing for normal delivery, therefore, no offence is made out against the opposite party nos.2 and 3.

5. In view thereof, the instant application is devoid of merit and is hereby **dismissed** accordingly.

Order Date :- 7.12.2023

Atul