

Court No. - 92

Case :- APPLICATION U/S 482 No. - 42948 of 2023

Applicant :- Srikant Kushwaha And Another

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

Counsel for Applicant :- Puneet Kumar Verma

Counsel for Opposite Party :- G.A.

Hon'ble Anish Kumar Gupta,J.

1. Heard Sri Puneet Kumar Verma, learned counsel for the applicants and Sri Prashant Saxena, learned AGA for the State.

2. The instant application under Section 482 Cr.P.C. has been filed seeking quashing of the charge sheet dated 22.12.2020 as well as entire proceeding in Criminal Case No. 1692 of 2021 (State vs. Srikant Kushwaha and another) arising out of Case Crime No. 312 of 2020, under Section 435 IPC, P.S. Karanda, district Ghazipur, pending in the court of Judicial Magistrate/FTC-1, District Ghazipur.

3. Learned counsel for the applicants submits that the instant FIR has been lodged by the opposite party no.2 on false and fabricated facts and the correct facts are that the opposite party no.2 was in occupation of khasra plot no. 588, however, the other adjoining khasra plot no.589 was a public land, which is recorded as drainage in the revenue record and some trees were situated on the khasra plot no.589 and not on 588. Learned counsel for the applicants further submits that since the opposite party no.2 has occupied the portion of khasra plot no.589 illegally and has removed the soil of the trees situated in khasra plot no.589. Therefore, out of twenty two, three were dried up. The demarcation marks put up by the revenue team were removed by the opposite party no.2, for which an FIR was lodged by the concerned Lekhpal on 20.01.2021. Therefore, from the FIR lodged by the concerned Lekhpal being Case Crime No. 24 of 2021, it is clear that the opposite party no.2 had no connection with the khasra plot no.589, which was a public land and the trees were situated on that public land. Therefore, rather the allegation against the opposite party no.2, he was in illegal occupation of the portion of khasra plot no. 589. It is submitted that the entire incident as has been narrated by the opposite party no.2 is false and fabricated. Therefore, learned counsel for the applicants prays for quashing of the entire proceeding of the instant case filed against the applicants.

4. Per contra, learned AGA for the State submits that in the instant case, the opposite party no.2 has lodged the FIR against

the applicants on 21.11.2020 alleging that the applicants herein ablazed the trees situated in khasra plot no.588, which was legally occupied by opposite party no.2 and infuriated by the FIR lodged by the opposite party no.2 against the applicants, who were in close association with the concerned Village Pradhan (the fact, which is admitted by learned counsel for the applicants), subsequently, the FIR has not been registered by the applicant in connivance with the concerned Village Pradhan and the Lekhpal etc, which was lodged subsequently on 21.01.2021. However, even the facts as narrated in the subsequent FIR lodged by the Lekhpal against the opposite party no.2 and his family members that did not exonerate the applicants for the offences alleged against them of ablazing 22 green trees situated in khasra plot no.588, which was in occupation of the opposite party no.2. Therefore, learned counsel for the State submits that no interference is called for in the instant proceedings.

5. Having heard the rival submissions made by learned counsel for the parties, this Court has carefully perused the record of the case. From perusal of the FIR in the instant case, it is apparent that there is categorical allegation by the opposite party no.2, who was in occupation of khasra plot no. 588 wherein green sagaon trees were situated, which have been ablazed by the applicants herein for the aforesaid incident. The opposite party no.2 has given the intimation to the concerned police on 21.11.2020, the police came there, inspected the site and subsequently, on the written complaint submitted by the opposite party no.2, the instant FIR was lodged against the applicants. It is admitted fact that the applicants were in close association with the concerned Village Pradhan, therefore, it appears that subsequent FIR was got registered through the concerned Lekhpal in connivance with the concerned Village Pradhan. In the instant case, after considering the material and statements of various witnesses, the charge sheet was filed against the applicants, on which the learned Magistrate has taken cognizance in accordance with law. Learned counsel for the applicants failed to establish that from the material available before the Magistrate, no offence against the applicants is made out.

6. In the considered opinion of this Court, no interference is called for and the instant application is devoid of merit and is hereby **dismissed**.

Order Date :- 14.12.2023/Ashish Pd.