

Court No. - 87

Case :- APPLICATION U/S 482 No. - 43441 of 2023

Applicant :- Mudit Rai And Another

Opposite Party :- State Of U.P. And Another

Counsel for Applicant :- Prabhat Kumar Singh, Jitendra Nath Tiwari

Counsel for Opposite Party :- G.A.

Hon'ble Neeraj Tiwari, J.

1. Mr. Babit Kumar, Advocate submitted that he has received instruction from opposite party no.2 to appear in the present case.
2. Heard learned counsel for the applicants, learned AGA for the State and Sri Babit Kumar, learned counsel for the opposite party no.2.
3. The present application under section 482 Cr.P.C. has been filed for quashing the N.B.W. order dated 31.10.2023 passed by Additional Chief Judicial Magistrate, Court No. 1, Ghaziabad in Complaint Case No. 3041 of 2022 (K.M. Neetu Vs. Jai Prakash Rai and others), under Sections- 354, 452 IPC, Police Station- Loni, District- Ghaziabad
4. Learned counsel for the applicants submitted that earlier trial Court has issued NBW order dated 26.7.2023 against the applicants. Thereafter, they have challenged the same by filing Application U/S 482 No.35567 of 2023, which was disposed of vide order dated 5.10.2023 with liberty to applicant to move recall application for recalling the NBW order dated 26.7.2023 and further Court has stayed the execution of NBW for a period of three weeks. He next submitted that thereafter, applicant has moved an application dated 20.10.2023 for recalling the NBW upon which learned Additional Chief Judicial Magistrate, Court No.1, Ghaziabad has passed order dated 25.10.2023 staying the NBW order upto 26.10.2023. Surprisingly, without deciding the recall application, trial Court again issued NBW order dated 31.10.2023. He firmly submitted that in light of aforesaid facts, order is bad and liable to be set aside.
5. Learned AGA, from perusal of the record could not dispute the aforesaid facts.

6. Considering the facts and circumstances of the case, the application is **disposed of** with direction to A.C.J.M., Court No.1, Ghaziabad to decide the recall application dated 20.10.2023 maximum within a period of three weeks from the date of production of certified copy of this order.

7. Non-bailable warrant issued against the applicant shall be kept in abeyance for a period of **three weeks** from today or disposal of the application dated 20.10.2023, whichever is earlier.

8. It is made clear that in case application dated 20.10.2023 had already been decided by the Court, this order would lost its effect and trial Court is at liberty to proceed against the applicants in accordance with law.

Order Date :- 16.12.2023

Junaid