

Court No. - 93

Case :- APPLICATION U/S 482 No. - 43616 of 2023

Applicant :- Smt Chandrawati And 3 Others

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

Counsel for Applicant :- Achyuta Nand
Pandey, Anand Prakash Pandey

Counsel for Opposite Party :- G.A.

Hon'ble Manoj Bajaj, J.

Applicants- accused have filed this application under Section 482 Code of Criminal Procedure seeking quashing of charge sheet dated 11.11.2022 filed in case number 406 of 2023, titled State versus Chandrawati and others arising out of case crime number 0125 of 2022, under Sections 452, 323, 504, 506, 336, 325 I.P.C. registered at Police Station- Pali Mukeempur, District Aligarh.

Learned counsel submits that the subject case was registered on the basis of the first information lodged at the instance of complainant- Smt. Seema Devi opposite party no.2 who alleged that on 07.06.2022 when she was busy in some construction inside her house, then accused Chandrawati, Meera Devi, Karan and Rajeev entered her house and started abusing her and raised objection relating to the construction by claiming the property to be owned by them and on this issue, the assailants/accused gave her beating and she was saved by the other residents of the area. According to the learned counsel, the

complainant had gone to the police station for lodging the first information report, however, the same was not registered and when she was returning home on 08.06.2022 again she was assaulted which resulted in fracture to her son. He submits that the statements recorded during investigation by the Investigating Officer are full of discrepancies and the medical evidence collected during investigation also does not support oral version of the injured.

Learned counsel has further pointed out that admittedly there is a dispute between the parties regarding the plot and when the applicants raised objection relating to the encroachment, the complainant opposite party no.2, her husband and their son gave beating to them and in this regard case crime number 112 of 2022 under Sections 147, 452, 323, 504 IPC dated 8.6.2022 also stands registered. He submits that as a counter blast the respondent no.2 has falsely implicated the applicants, therefore, the proceedings being *mala fide* deserve to be quashed.

During the course of hearing, it is not disputed by learned counsel for the applicants that the charge sheet stands filed in both the cross cases and the same have not been considered by the trial court as charges against the respective accused persons are yet to be framed.

Upon hearing the learned counsel for applicants and

considering the above background, this Court finds that the nature of the offences in both the cases are against the human body and the parties have set up a rival case against each other, relating to the same occurrence, which means they have admitted the occurrence. The respective stand of the parties put forth before this Court cannot be adjudicated through this application under Section 482 Cr.P.C., as it would be ascertained by the trial court after examining the evidence that which party was aggressor, therefore, in the given facts, no interference is called for.

Resultantly, the application fails and is dismissed. However, it shall be open for the applicants to raise all these issues and grounds before the trial court at an appropriate stage during trial.

Order Date :- 29.11.2023

Raj