

Court No. - 92

Case :- APPLICATION U/S 482 No. - 43660 of 2023

Applicant :- Noorn Nisha

Opposite Party :- State Of U.P. And 9 Others

Counsel for Applicant :- Brijesh Kumar Singh

Counsel for Opposite Party :- G.A.

Hon'ble Anish Kumar Gupta,J.

1. Heard Sri Brijesh Kumar Singh, learned counsel for the applicant and Sri Anish Upadhyay, learned AGA for the State.

2. The instant application under Section 482 Cr.P.C. has been filed seeking quashing of the impugned judgment and order dated 11.07.2023 passed in Criminal Revision No. 58 of 2022 (Nooran Nisha vs. State of U.P. and others) and order dated 07.09.2022 passed by the Chief Judicial Magistrate, Kasganj in Misc. Case No. 636 of 2022 (Nooran Nisha vs. Nashibul Hasan), under Section 156(3) Cr.P.C., P.S. Patiyali, District Kasganj.

3. It is alleged that the applicant in her application under Section 156(3) Cr.P.C. alleging that the opposite party no.2 used to torture and harass the daughter of the applicant and ultimately she died in suspicious circumstances in the intervening night of 10/11.07.2022. It is alleged by the applicant that after the death of the daughter of opposite party no.2, the son of the applicant had made a complaint to the police, however, no action was taken by the police and the opposite parties have committed last rites of the daughter of opposite party no.2 without informing the police. The said complaint was filed by the applicant on 16.08.2022. In the said complaint, it has been alleged that on 08.08.2022, the Superintendent of Police, Kasganj was informed by way of an application with regard to the incident and then the complaint was filed on 16.08.2022.

4. The learned Chief Judicial Magistrate vide order dated 07.09.2022 dismissed the said application under Section 156(3) Cr.P.C. Before disposing of the said application, the learned Chief Judicial Magistrate called for a report from the concerned police station. In the report of the police, it was reported that on 09.07.2022, there was some quarrel between the deceased - Rubina and her husband. When opposite party no.2 and Rubina was going

towards the station with intent to commit suicide on railway track, subsequently, she came back to the house and consumed poisonous substance. Thereafter, the family members took her to the doctor where she was treated and in the morning she died at about 03:00 a.m. Thereafter, her family members reached there and final burial rites of the deceased were performed in presence of the applicant and her family members. There was Panchayat between the parties and when the matter could not be settled, the instant application has been filed by the applicant no.1. From the aforesaid report of the concerned police station, it appears that after the death of the deceased, the applicant and her family members have participated in the last rites of the deceased and subsequent thereto, they had started negotiating and bargaining for the death of the deceased and son of the applicant herein had demanded Rs.5 lacs and Rs.5 lacs to be deposited in the name of the son and daughter of the deceased, which were refused by the opposite parties and all the jewellery were exchanged. Since the said Rs. 10 lacs were not paid by the opposite party no.2, the instant case has been filed by the applicant herein.

5. From the report, it is not apparent that after the death of the deceased, the applicant or any of her family members have ever informed the police with regard to the incident rather they participated in the last rites and thereupon they had negotiated themselves and when the negotiations failed, the instant application has been filed under Section 156(3) Cr.P.C., which was rejected vide order dated 07.09.2022 passed by the Chief Judicial Magistrate. Against the said order dated 07.09.2022, the applicant has approached the learned Additional Session Judge, Kasganj by filing the revision petition, which was also dismissed vide order dated 11.07.2023 by the Special Judge, SC/ST Act, Kasganj.

6. In the facts and circumstances of this case, which narrate that immediately after the death, the applicant had not informed the police and negotiated and participated in the last rites of the deceased. Therefore, it is not open for them at the later stage to submit that last rites of the deceased was performed without any postmortem etc. In such view of the matter, the instant application is an after thought of the applicant and is nothing but a malicious attempt to prosecute the opposite party nos. 2 to 10. Accordingly, the instant application is devoid of merit and is hereby **dismissed**.

Order Date :- 12.12.2023

Ashish Pd.