

Court No. - 93

Case :- APPLICATION U/S 482 No. - 44110 of 2023

Applicant :- Arvindra Kumar Pandey

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

Counsel for Applicant :- Avanish Kumar Upadhyay, Raj Kumar Upadhyay

Counsel for Opposite Party :- G.A.

Hon'ble Manoj Bajaj, J.

Applicant has filed this application under Section 482 Code of Criminal Procedure for quashing the orders dated 6.10.2023 and 25.10.2023 by Civil Judge (F.T.C.) Court no. 5, Ghazipur passed in Criminal Case No. 11797 of 2023, titled State vs. Arvindra Kumar Pandey, arising out of Case Crime No. 180 of 2022, under Sections 420 and 406 I.P.C., P.S. Jagnipur, district- Ghazipur, whereby non- bailable warrants against the applicant have been issued.

Learned counsel has submitted that the prosecution of applicant is apparently misuse of the process of law, therefore, interference is warranted by this Court by exercise of inherent powers under Section 482 Code of Criminal Procedure. He prays that the impugned Non-Bailable Warrants be quashed, in the interest of justice.

During the course of hearing, it is fairly stated by learned counsel that non-bailable warrants have been issued against the applicant to secure his presence and charges are yet to be framed.

Upon hearing the learned counsel and considering his submissions, as well as the background of this case, this Court finds that the applicant remained absent from the trial proceedings abruptly without seeking any permission from the court. The facts and circumstances of the case reveal that the accused-applicant was throughout aware of the pendency of the case, but he never made any attempt to join the trial proceedings.

This Court is also of the view that as the non-bailable

warrants have been issued against the accused to secure his presence, therefore, he can avail the alternative remedy seeking recalling/cancellation of the non-bailable warrants, in case, he was not aware of the trial proceedings.

At this stage, it would not be appropriate for this Court to exercise inherent powers under Section 482 Cr.PC. for quashing of the main case, in view of the decision of Hon'ble Supreme Court delivered in ***Dharmatma Singh vs. Harminder Singh & Ors. report in Criminal Appeal No.1126 of 2011 (3) RCR Criminal 38*** holding that if a party can avail alternative remedy according to the provisions of Code of Criminal Procedure, in that eventuality the inherent powers under Section 482 Cr.P.C. cannot be exercised.

In view of the above background of the case as well as law laid down by Hon'ble Supreme Court, this Court does not find it to be a fit case for exercise of inherent powers under Section 482 Code of Criminal Procedure. However, it shall be open for the applicant to raise all the grounds pleaded in this application before the trial court at an appropriate stage.

With the above observations, this application u/s 482 CrPC is dismissed.

Order Date :- 2.12.2023
Faridul