

Court No. - 92

Case :- APPLICATION U/S 482 No. - 44692 of 2023

Applicant :- Rajendra Kumar Sahu And 2 Others

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

Counsel for Applicant :- Manvendra Singh

Counsel for Opposite Party :- G.A.

Hon'ble Anish Kumar Gupta,J.

1. Heard Sri Manvendra Singh, learned counsel for the applicants and Sri Ramesh Kumar, learned A.G.A. for the State.

2. The instant application under Section 482 Cr.P.C. has been filed seeking quashing of summoning order dated 19.11.2018 passed by Chief Judicial Magistrate, Kaushambi as well as entire proceeding of Complaint Case No.2034 of 2018 (Saiyyad Arshad Hussain Vs. Rajendra Kumar and others), under Sections 323, 504, 506 I.P.C., Police Station - Manjhanpur, District - Kaushambi, pending in the Court of Chief Judicial Magistrate, Kaushambi.

3. Learned counsel for the applicants submits that the opposite party no.2 has filed a complaint under Section 156 (3) Cr.P.C. against the applicants herein alleging the offence under Sections 419, 420, 467, 468, 471, 452, 504, 506 I.P.C. in which vide order dated 16.08.2018, learned Additional Chief Judicial Magistrate, Kaushambi has summoned the applicant no.1 herein along with other co-accused persons. Learned counsel for the applicants further submits that again the opposite party no.2 has filed another complaint dated 28.04.2018, against the applicants herein making allegations for the offence under Sections 323, 504, 506 I.P.C. in which learned Chief Judicial Magistrate, Kaushambi has summoned the applicants. Learned counsel for the applicants further submits that since the applicant no.1 herein had purchased the land to which the opposite party no.2 was planning to purchase, therefore, opposite party no.2 having enmity against the applicants herein and has filed a complaint against the applicants herein. Learned counsel for the applicants next submits that the instant complaint is nothing but forged and fabricated complaint which has been lodged just to harass the applicants by the opposite party no.2, who is an Advocate by profession. Therefore he has prayed for quashing the entire proceedings of the instant case.

4. Learned A.G.A. submits that there was a previous complaint lodged by the opposite party no.2 against the applicants, therefore, there was sufficient motive for the applicant no.1 to cause the incident as alleged in the complaint and the learned Magistrate after recording the statement of witnesses under Section 200 and 202 Cr.P.C. has found a *prima facie* case against the applicants, therefore, vide order dated 19.11.2018 the applicants have been summoned. Learned A.G.A. for the State further submits that summoning order was passed on 19.11.2018 and after five years, the instant application has been filed by opposite party no.2, therefore, he has submitted that there is no ground for interference in the instant case at such belated stage.

5. Having heard rival submissions made by learned counsel for the parties, this Court has carefully perused the record of the case and from perusal of the record this Court found that earlier the opposite party no.2 has filed an Application under Section 156 (3) Cr.P.C. which was converted into a Complaint Case No.1054 of 2017 in which the allegations against the applicant no.1 were made that he has purchased one Bigha of land in question and out of which half part was sold by him to one Lallu, son of Shiv Lal and again in the entire land which he had purchased earlier, was sold by the applicant nos.1 and 2 to an Institution being Uchchatar Madhyamik Vidyalaya, of which the applicant no.1 was the Manager, therefore, he defrauded the said Institution for which a complaint was made by the opposite party no.2. So far as the present incident is concerned there was sufficient motive for the applicants to cause the incident as alleged from perusal of the complaint as well as the statement under Section 200 and 202 Cr.P.C., *prima facie*, case is made out against the applicants herein, therefore, the instant applicant is devoid of merit and is accordingly **dismissed**.

Order Date :- 8.12.2023

Atul