

Court No. - 93

Case :- APPLICATION U/S 482 No. - 44956 of 2023

Applicant :- Prabhat And 2 Others

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

Counsel for Applicant :- Bibhuti Narayan Singh

Counsel for Opposite Party :- G.A.,Yadvesh Yadav

Hon'ble Manoj Bajaj,J.

Applicants being accused have approached this Court through this application under Section 482 Code of Criminal Procedure seeking quashing of the summoning order dated 15.11.2023 passed by Additional Chief Judicial Magistrate, Court No.1, Bulandshahr in Complaint Case No. 4841 of 2023 (Case No. 12426 of 2023), titled *Ram Babu Vs. Kishan and others*, under Sections 354, 452, 323, 506, 379 I.P.C., Police Station Ahmadgarh, District Bulandshahr.

Learned counsel for applicants has argued that opposite party no.2 being neighbor of the applicants has falsely implicated them in impugned complaint for alleged commission of offences punishable under Sections 354, 452, 323, 506, 379 I.P.C. He submits that earlier at the instance of father of applicant no.3 namely, Kishan Sharma a case bearing Case Crime No.163 of 2023 dated 7.7.2023 against the complainant-opposite party no.2 for the alleged commission of offences punishable under Section 323, 506, 427 I.P.C. was registered, and the said case

is pending adjudication. He submits that prior to the impugned complaint, another complaint was filed by opposite party no.2, under Section 156(3) Cr.P.C., whereupon after registration of the case and investigation, a final report was filed only against the father of applicant no.3. According to him, complainant is bent upon to falsely implicate the applicants and the impugned complaint is also of the same nature, therefore, relying upon the decision of Hon'ble Apex Court in the case of **State of Haryana Vs. Bhajan Lal, 1992 SCC(Cr.) 426**, learned counsel prays that interference by this is warranted as the complaint is nothing, but an abuse of the process of law.

After hearing the learned counsel for applicants and considering his submissions, this Court finds that the complaint is supported by the statements of the complainant, his wife and brother which relates to the alleged commission of offences against human body and house trespass. A perusal of the impugned order reveals that the Magistrate has carefully examined the material on record while forming an opinion that a *prima facie* case against the accused is made out for the alleged commission of offences mentioned in the complaint. Since, at this stage, the Magistrate is to enter into a limited exercise of finding out a *prima facie* case, and is not required to examine the complaint and evidence meticulously to ascertain that it would certainly lead to the

conviction of the accused, therefore, it cannot be said that the complaint is an abuse of the process of law. No doubt, in the decision of Hon'ble *Apex Court* in **State of Haryana Vs. Bhajan Lal 1992 SCC(Cr.) 426**, certain guidelines have been issued for exercise of power under Section 482 Cr.P.C., but considering the facts and circumstances of this case, it is not a case where the allegations, if, taken to be true on its face value, no case would be made out against the applicants. Thus, the decision relied upon by the learned counsel is not attracted in the facts and circumstances of this case.

Resultantly, finding no merit in this application, the same is hereby dismissed.

Order Date :- 15.12.2023
P.S.Parihar