

Court No. - 93

Case :- APPLICATION U/S 482 No. - 45415 of 2023

Applicant :- Chandan Kumar Chaudhary

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

Counsel for Applicant :- Virendra Kumar
Mishra, Pavan Kumar Pandey

Counsel for Opposite Party :- G.A.

Hon'ble Manoj Bajaj, J.

Applicant-Chandan Kumar Chaudhary has filed this application under Section 482 Code of Criminal Procedure seeking reinvestigation/ further investigation by a competent and impartial Investigating Agency (preferably C.B.I.) in Case Crime No. 511 of 2019, registered under Sections 376-D, 342, 506 I.P.C., Police Station Rohaniya, District Varanasi.

Learned Senior Counsel submits that the above case was registered at the instance of opposite party no.2 relating to an incident dated 01.07.2019 and the complainant, who is husband of the victim has falsely implicated the applicant and his co-accused namely, Sandeep Kumar Mishra, who are on bail. He submits that the investigation in the subject case was not carried properly, therefore, the applicant is seeking indulgence of this Court for transferring the investigation to an independent agency, preferably, by Central Bureau of Investigation. He prays that the necessary directions be issued.

During the case of hearing, it is not disputed by learned senior counsel that the investigation in the subject F.I.R. already stands completed and pursuant to the final report submitted under Section 173(2) Cr.P.C. even the charges against the accused/applicant have been framed. Learned Senior Counsel fairly states that the prosecution is in the process of adducing its evidence before the trial court.

Upon hearing learned Senior Counsel for the applicant and considering his submissions, particularly the fact that the trial has commenced and prosecution evidence is being recorded, therefore, this Court does not find it to be a fit case for transferring the investigation. Besides, in view of the decision of Hon'ble Supreme Court in the case of **Dinubhai Boghabhai Solanki Vs. State of Gujarat and others, 2014 (4) SCC, 626,** the investigation in a case can not be transferred on the basis of request by the accused.

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

Order Date :- 13.12.2023
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