

Court No. - 28

Case :- APPLICATION U/S 482 No. - 616 of 2014

Applicant :- Mohd. Manzoor Ur Rahman Khan And Ors.

Opposite Party :- The State Of U.P And Anr.

Counsel for Applicant :- Aftab Ahmad

Counsel for Opposite Party :- Govt. Advocate

Hon'ble Shree Prakash Singh,J.

At the very outset, learned counsel for the applicants has pointed out that the applicant no.1, namely, Mohd. Manzoor Ur Rahman Khan, died on 27.05.2014, during the pendency of the instant application u/s 482 Cr.PC.

In view of the aforesaid submission, the instant application on behalf of the applicant no.1 stands abated.

Heard learned counsel for the applicants no.2 & 3, learned AGA for the State and perused the record.

The instant application has been filed with prayer for quashing of the impugned charge sheet dated 04.11.2009 as well as the entire proceedings pending before the Additional Chief Judicial Magistrate VI, Court No. 30 District Lucknow, in Case No.8645/2009, (State Versus Shabbu and others) under Section 427 IPC, Police Station- Kakori, District- Lucknow.

Learned counsel for the applicant submits that initially an FIR was lodged u/s 457 & 380 IPC and thereafter the investigating officer without collecting material evidence filed the charge sheet. He added that in fact there is no cogent piece of evidence against the applicant and the FIR is based on false and concocted story. He further added that the ingredient of Section 427 IPC do not attract, therefore, his submission is that the criminal proceedings against the present applicants may be quashed.

Learned counsel for the applicants has further submitted that interest of justice would be sub-served if this Hon'ble Court may be pleased to give liberty to the applicants to move discharge application before the trial court and further the trial court is directed to decide the same within the stipulated period of time as may be fixed by this Court.

On the other hand, learned AGA has opposed the contention aforesaid and submitted that the present applicants are named in

the FIR and have committed offence and thereafter the charge sheet was filed, therefore, no interference is warranted.

In view of the aforesaid submissions, applicants no.2 & 3 are given liberty to move discharge application before the trial court, within a period of two weeks from the date of this order and if such application is filed, the same shall be decided within 45 days by the trial court concerned.

With the aforesaid observation, the instant application is hereby **disposed of.**

Applicants are given liberty to move discharge application before the court concerned through their counsel within the aforesaid period of time.

However, it is open for the trial court to proceed in accordance of law if the applicants fail to move discharge application within the time stipulated by this Court.

Order Date :- 17.10.2023

Manoj K.