

Court No. - 12

Case :- APPLICATION U/S 482 No. - 5879 of 2018

Applicant :- Smt. Pushplata

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

Counsel for Applicant :- Anil Kumar Pandey

Counsel for Opposite Party :- Govt. Advocate, Arvind Kumar
Srivastava, Vinod Kumar

Hon'ble Rajeev Singh, J.

1. Counter affidavit filed by learned A.G.A. for the State is taken on record.
2. Heard learned counsel for the applicant as well as learned A.G.A. for the State and perused the record.
3. Learned counsel for the applicant does not want to file rejoinder affidavit, accordingly, the present application is being decided finally.
4. The present application has been filed for quashing the impugned cognizance & summoning order dated 20.01.2018 passed by learned Additional Chief Judicial Magistrate-III, Court No.19, Sultanpur in Crl. Case No.29 of 2018 initiated pursuant thereto on the basis of charge-sheet dated 11.08.2014, Police Station- Haliyapur, District- Sultanpur arising out of Case Crime No.C-623 of 2009 U/s 504, 506 I.P.C., Section 2 of Prevention of Insult to National Honour Act of 1971 as well as proceedings of Crl. Case No.29 of 2018.
5. Learned counsel for the applicant submits that private respondent is a journalist who forcibly enter into the school premises, in the said school, applicant was posted as assistant teacher; in this regard, objection was raised by applicant against his entry in the school then he started assaulting applicant. He further submits that one F.I.R. was lodged by applicant against private respondent as Case Crime No.447 of 2009 dated 18.08.2009, thereafter, only with the intention to make pressure on applicant, F.I.R. of the case in question was lodged on the basis of incorrect facts. It is further submitted that departmental inquiry was conducted by B.S.A. and all the alleged allegations were found incorrect. It is further submitted that after detail investigation, final report was submitted by Investigating Officer and no alleged offense was found true. It is further submitted that one protest petition was also filed which was

allowed and order was passed by trial court for further investigation, thereafter, charge-sheet was submitted by Investigating Officer in the most mechanical manner. It is also submitted that the inquiry was conducted by senior officials of the said department and it was found that the alleged allegations were false, hence, the criminal proceeding for same set of facts is not permissible. It is, thus, submitted that indulgence of this Court is required.

6. Learned A.G.A. opposes the prayer of applicant and submits that charge-sheet has already been filed by Investigating Officer but he does not dispute this fact that as per departmental proceeding as well as earlier investigation, the alleged offense was not found true against the applicant.

7. Considering the submissions of learned counsel for the applicant, learned A.G.A. and going through the contents of application, counter-affidavit as well as other relevant documents; it is undisputed fact that one above-mentioned F.I.R. was lodged by applicant against private respondent, thereafter, F.I.R. of the case in question was lodged. On the basis of allegations made in the present F.I.R., departmental proceeding was initiated, in which, applicant was exonerated and final report was also submitted by Investigating Officer, thereafter, further investigation was conducted under the order of trial court and charge-sheet was filed by Investigating Officer. It is further undisputed fact that in the departmental proceedings, no insult of national flag was found. In such circumstances, once in departmental proceedings, applicant was exonerated, thus, for the same set of facts, criminal proceeding is sheer abuse of legal provisions.

8. In view of above, the present application U/s 482 Cr.P.C. is **allowed** and the impugned cognizance & summoning order dated 20.01.2018 passed by learned Additional Chief Judicial Magistrate-III, Court No.19, Sultanpur in Crl. Case No.29 of 2018 initiated pursuant thereto on the basis of charge-sheet dated 11.08.2014, Police Station- Haliyapur, District- Sultanpur arising out of Case Crime No.C-623 of 2009 U/s 504, 506 I.P.C., Section 2 of Prevention of Insult to National Honour Act of 1971, and proceedings of Crl. Case No.29 of 2018 are hereby **quashed**.

Order Date :- 26.10.2023

Arpan