

Court No. - 11

Case :- APPLICATION U/S 482 No. - 9322 of 2023

Applicant :- Hari Shankar Jain And Others

Opposite Party :- State Of U.P. Thru. Secy. Deptt. Of Home Civil Sectt. Lko And 2 Others

Counsel for Applicant :- Ayodhya Prasad Mishra A.P. Mishra,Ayush Shukla,Rituraj Mishra,Shesh Ram Verma

Counsel for Opposite Party :- G.A.,Ravindra Kumar

Hon'ble Saurabh Lavania,J.

Heard.

By means of the present application under Section 482 CrPC, the applicants have approach this Court seeking following relief(s):-

"Wherefore it is most respectfully prayed that this Hon'ble Court may graciously be pleased to quash/set-aside the entire criminal proceedings arising out of Criminal Case No.4566/2000 (State Vs. Karuna Singh and others) relating to case crime no. 1183/1999, under sections 406, 420 I.P.C relating to Police Station Hazratganj District Lucknow in the light of provisions of section 320 Cr.P.C. and quash the non-bailable warrant issued on 28.8.2023 by learned Additional Chief Judicial Magistrate-IV, Lucknow against the petitioners who have been arrayed as witness in the charge sheet on behalf of complainant by the Investigating Officer and the order dated 13.02.2023 passed by learned Additional Chief Judicial Magistrate-IV, Lucknow including charge sheet dated 22.4.2000 submitted by the investigating officer against the opposite party no.2 and 3, as contained in Annexure No. 1, 2 and 3 to this petition, in the interest of justice."

Brief facts, as indicated, are to the effect that the FIR was lodged by the applicant. No.1 on 28.11.1998, Case Crime No.1183 of 1998, under Section 406, 420, 467, 468, 471, 504 and 506 at Police Station Hazratganj, District-Lucknow.

It reflects from the FIR dated 28.11.1998 that on account of failure to pay certain amount, the FIR in issue was lodged against opposite party No.2 and 3 namely Smt. Karuna Singh and Aditya Prakash Singh, respectively, and thereafter, the Investigating Officer on the basis of material collected during the investigation submitted the charge sheet under Section 406 and 420 IPC, which are compoundable under Section 320 of CrPC.

It is also indicated that after lodging of the FIR, the entire due amount with interest was provided by the accused to the applicants.

In regard to aforesaid, the attention of this Court has been drawn on the facts indicated in the para 7 of the counter

affidavit as also to the annexure Nos. CA-1 and CA-2 The amount so indicated in the para 7 of the counter affidavit is not in issue.

It is submitted that after receiving the entire amount, an application was preferred before the trial court under Section 320 CrPC and the same was rejected on 13.02.2023 and in the aforesaid background of the case, the present application under Section 482 CrPC has been filed for the main relief(s) sought, as quoted above.

It is also stated by the counsel for the parties that it is apparent that the matter has been settled between the parties and no fruitful purpose would be served in keeping the proceedings pending before the trial court and there is no chance of conviction in view of the settlement arrived between the parties to the proceedings.

Considering the aforesaid, particularly that the amount in issue has already been paid by the opposite party No.2 and 3 to the applicants and this transaction is not in issue and on being asked, learned counsel for the applicants admitted that entire amount has been received by the applicants, this Court is of the view that indulgence in the matter is required as no purpose would be served in keeping the proceedings in issue pending and being so, the present application is liable to be allowed.

Accordingly, the entire criminal proceedings arising out of Criminal Case No.4566 of 2000, (State Vs. Karuna Singh and others) in Case Crime No. 1183 of 1999, under Sections 406, 420 I.P.C, Police Station - Hazratganj, District-Lucknow pending before the trial court including the non-bailable warrant issued on 28.8.2023 by learned Additional Chief Judicial Magistrate-IV, Lucknow against the applicants, who have been arrayed as witness in the charge sheet on behalf of complainant by the Investigating Officer and the order dated 13.02.2023 passed by learned Additional Chief Judicial Magistrate-IV, Lucknow as also the charge sheet dated 22.4.2000 is hereby quashed.

With the aforesaid, the present application is **allowed**.

Office/Registry is directed to send the copy of this order to concerned court forthwith.

Order Date :- 24.11.2023

Raj