

Court No. - 12

Case :- APPLICATION U/S 482 No. - 9659 of 2023

Applicant :- Smt. Mamta Trivedi

Opposite Party :- State Of U.P. Thru. Prin. Secy. Home Lko.
And Another

Counsel for Applicant :- Anil Kumar Awasthi

Counsel for Opposite Party :- G.A.

Hon'ble Rajeev Singh,J.

1. Heard learned counsel for the applicant, Mr. V.K. Shahi, Additional Advocate General, Dr. V.K. Singh, Government Advocate assisted by Mr. Rao Narendra Singh, learned AGA and perused the record.

2. The present application is filed with the prayer to quash the proceeding of Case Crime No.0191/2021, under Section 3/7 of Essential Commodities Act, Police Station Shivgarh, Raibareli, in Case No.38319 of 2022, pending in the Court of learned Ist Additional Chief Judicial Magistrate, Court No.11, Raibareli.

3. On 06.10.2023 following order was passed:-

"1. Heard learned counsel for the applicant and learned A.G.A. for the State.

2. The present application is filed with the prayer to quash the proceeding of Case Crime No.0191/2021, under Section 3/7 of Essential Commodities Act, Police Station Shivgarh, Raibareli, in Case No.38319 of 2022, pending in the Court of learned Ist Additional Chief Judicial Magistrate, Court No.11, Raibareli.

3. Learned counsel for the applicant submits that case diary reveals that statement of three persons, namely, Smt. Kamlesh Kumari, Smt. Shivpyari, Smt. Dhanpata was recorded on 5.2.2022 and 10.3.2022 but they were already died on 15.6.201, 15.8.2021, 29.12.2019.

4. List this case on 17.10.2023.

5. Superintendent of Police, Raibareli is directed to ensure the presence of Investigating Officer before this Court alongwith the complete case diary, as it is evident that Investigating Officer has done ghost interrogation."

4. In pursuance of the earlier order dated 06.10.2023 sub-inspector Pancham Lal, P.S. Shivgarh, District- Raibareilly is present in the court today.

5. Learned counsel for the applicant submitted that

investigation of case in question was conducted in the most mechanical manner, only with the intention to implicate the applicant on the basis of statement of dead persons recorded under Section 161 CrPC.

6. Sub inspector, Pancham Lal, who is present before this Court stated that the ration cards were collected from the applicant as well as other ration card holders and statements of several villagers were recorded and due to some inadvertent mistake at the time of preparation of case diary the name of said persons were also entered. Learned AGA requested for sometime to conduct further investigation.

7. Considering the submissions of rival parties, going through the contents of petition, as it is evident from the record that the statement of ration card holders were recorded by the investigating officer and all the aforesaid three persons were no more at the time of investigation but it is not disputed by the applicant that their names find place in the card, therefore the statement of those villagers were recorded and it might be possible that their names may also be mentioned in the case diary. Therefore, this court is of the view that further investigation is needed, trial court is directed to return entire original case diary to the circle officer, Maharajganj. Superintendent of Police, Raibareilly is directed to ensure further investigation not below the rank of circle officer and submit a fresh report. Accordingly, present petition is **disposed of**.

8. Senior Registrar is directed to communicate this order to A.D.G. zone Lucknow for necessary action.

Order Date :- 17.10.2023

Vipul