

Court No. - 15

Case :- CRIMINAL APPEAL No. - 2781 of 2023

Appellant :- Kripa Shankar Pandey

Respondent :- State Of U.P. Thru. Addl. Chief Secy. Home Lko. And Another

Counsel for Appellant :- Ajay Kumar Ojha, Prabhat Kumar Mishra, Prabhat Kumar Ojha

Counsel for Respondent :- G.A.

Hon'ble Shamim Ahmed, J.

Heard learned counsel for the appellant and Sri Hari Shanker Bajpai, learned A.G.A.-I for the State.

This appeal has been filed with a prayer to stay the further proceedings of Sessions Case No.1548 of 2022, Case Crime No.652 of 2022, under Sections 323, 504, 506, 452, 354-Kha, 376, 511 I.P.C. and Section 3(1)(Da), 3(1)(Dha), 3(1)(Ba), 3(1)(Va), 3(1)(V) of S.C./S.T. Act, Police Station Kotwali City, District Pratapgarh as well as to quash the impugned summoning order dated 22.12.2022 passed by learned Special Judge, S.C./S.T. Act, Pratapgarh in the aforesaid case.

The contention of the learned counsel for the appellant is that no offence against the appellant are disclosed and the present prosecution has been instituted with a mala fide intention for the purpose of harassment.

Per contra, the learned A.G.A.-I has contended that from the allegation made in the complaint prima facie offence is made out against the appellant. The innocence of the appellant cannot be adjudged at the pre trial stage. Therefore, the appellant does not deserve any indulgence.

From the perusal of the impugned order, this Court does not find any illegality or irregularity in the impugned order. The entire matter pertains to the factual aspect, which cannot be ascertained at this stage.

At the stage of issuing process the court below is not expected to examine and assess in detail the material placed on record, only this has to be seen whether prima facie cognizable offence is disclosed or not. The Apex Court has also laid down the guidelines where the criminal proceedings could be interfered and quashed in exercise of its power by the High Court in the

following cases:-**(i) R.P. Kapoor Vs. State of Punjab, AIR 1960 S.C. 866, (ii) State of Haryana Vs. Bhajanlal, 1992 SCC (Cri.)426, (iii) State of Bihar Vs. P.P. Sharma, 1992 SCC (Cri.)192 and (iv) Zandu Pharmaceutical Works Ltd. Vs. Mohd. Saraful Haq and another, (Para-10) 2005 SCC (Cri.) 283.**

From the aforesaid decisions the Apex Court has settled the legal position for quashing of the proceedings at the initial stage. The test to be applied by the court is to whether uncontroverted allegation as made prima facie establishes the offence and the chances of ultimate conviction is bleak and no useful purpose is likely to be served by allowing criminal proceedings to be continued.

The High Court would not embark upon an inquiry as it is the function of the Trial Judge/Court. The interference at the threshold of quashing of the criminal proceedings in case in hand cannot be said to be exceptional as it discloses prima facie commission of an offence. **In the result, the prayer for quashing of summoning order is refused.**

However, the appellant is directed to appear and surrender before the court below and apply for bail within four weeks from today, the prayer for bail shall be considered expeditiously by the court below in accordance with law after hearing the Public Prosecutor.

With the aforesaid observations, this appeal is finally **disposed of.**

The party shall file computer generated copy of such order downloaded from the official website of High Court Allahabad or certified copy issued from the Registry of the High Court, Allahabad.

The concerned Court/Authority/Official shall verify the authenticity of such computerized copy of the order from the official website of High Court Allahabad and shall make a declaration of such verification in writing.

Order Date :- 12.10.2023
Saurabh