

Court No. - 15

Case :- CRIMINAL APPEAL No. - 2877 of 2023

Appellant :- Smt. Kamlesha Devi And 3 Others

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

Counsel for Appellant :- Dilip Kumar Verma, Pawan Kumar Dubey, Sandeep Kumar Ojha

Counsel for Respondent :- G.A.

Hon'ble Shamim Ahmed, J.

Heard learned counsel for the appellants and learned A.G.A. for the State.

The present appeal under Section 14-A(1) S.C./S.T. Act has been preferred against the impugned order dated 28.07.2023 passed by the Court of Special Judge (S.C./S.T. Act) Sitapur in Special Trial No. 217 of 2023 (State Vs. Arun Giri and others) arising out of Case CrimeNo. 303 of 2022, under Sections 323, 504, 506 I.P.C. and Section 3(1) (da), 3(1) (dha) S.C./S.T. Act, Police Station Tambaur, District Sitapur, by which the appellants have been summoned.

All the contentions raised by the appellants' counsel relate to disputed questions of fact. The court has also been called upon to adjudge the testimonial worth of prosecution evidence and evaluate the same on the basis of various intricacies of factual details which have been touched upon by learned counsel. The veracity and credibility of material furnished on behalf of the prosecution has been questioned and false implication has been pleaded. In the process of invoking its inherent jurisdiction, this court cannot be persuaded to have a pre trial before the actual trial begins. The submissions made by the learned counsel call for adjudication on pure questions of fact which may be adequately adjudicated upon only by the trial court and while doing so even the submissions made on points of law can also be more appropriately gone into by the trial court in this case.

The quashing of the charge sheet and summoning order can also be done only if it does not disclose any offence or if there is any legal bar which prohibits the proceedings on its basis. The Apex Court decisions in the case of **R.P. Kapur Vs. State of Punjab AIR 1960 SC 866**, **State of Haryana Vs. Bhajan Lal 1992 SCC(Cr.) 426**, **State of Bihar Vs. P.P. Sharma, 1992 SCC (Cri.) 192** and also in **Zandu Pharmaceutical Works Ltd. Vs. Mohd. Saraful Haq and another, (Para-10) 2005 SCC (Cri.) 283** make the position of law in this regard clear.

In the absence of any of the grounds recognized by the Apex Court which might justify the quashing of charge sheet or the impugned proceedings, the prayer for quashing the same is refused as I do not see any abuse of the courts process either. The court below has been vested with sufficient powers to discharge the accused even before the stage to frame the charges comes, if for reasons to be recorded it considers the charge to be groundless.

As requested, the permission to appear through counsel before the concerned lower court within a period of three weeks from today and move an application claiming discharge. The concerned court shall after hearing the counsel decide the application on merits in accordance with law within a period which shall not exceed a period of two months from today.

With the above observations/directions, the appeal is finally **disposed of.**

Order Date :- 11.10.2023

Arvind