

Court No. - 28

Case :- APPLICATION U/S 482 No. - 9953 of 2023

Applicant :- Arvind Kumar Yadav

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

Counsel for Applicant :- Indu Prakash Singh,Usha Tripathi

Counsel for Opposite Party :- G.A.,Vikas Vikram Singh

Hon'ble Shree Prakash Singh,J.

Sri Vikas Vikram Singh, Advocate, has put in appearance by way of filing Vakalatnama on behalf of opposite party no.2 and the same is taken on record.

Heard Sri Indu Prakash Singh,learned counsel for the applicant, Sri Vikas Vikram Singh, learned counsel for the opposite party no. 2, Sri Girijesh Kumar Dwivedi, learned A.G.A. for the State and perused the material placed on record.

The instant application under section 482 Cr.P.C. has been filed with the prayer to quash the entire proceedings of Criminal Case No. 19681 of 2023 tilted 'State Vs. Anurag Yadav etc.' pending before the court of learned Chief Judicial Magistrate-Vth, Lucknow, arising out of Crime No. 223 of 2022, Police Station-Chowk Commissionerate, under sections 341,427 and 506 of I.P.C. alongwith the summoning order dated 07-02-2023, chargesheet no. 01 of 2022, dated 18-11-2022 and all proceedings initiated in pursuance thereto.

Learned counsel appearing for the applicant submits that the applicant is an Engineer and he was never involved in committing any offence as has been narrated in the first information report. He added that there is a dispute in between the parties regarding the property in question, but, that was, later on settled by way of 'Smiriti Vilekh' and a civil suit is also pending and therefore, the dispute, if any, is of civil in nature and that is being given colour of criminality by way of lodging an F.I.R.

Adding his arguments, he submits that the Investigating Officer, without collecting the cogent

evidence, has submitted the chargesheet and the learned trial court, ignoring the aforesaid facts, issued summons against the applicant, therefore, submission is that the criminal proceedings against the applicant may be quashed.

On the other hand, learned counsel appearing for the opposite party no. 2 has vehemently opposed the contentions aforesaid and submits that the opposite party no. 2 had purchased the land in question, as the land was mutated in the name of the vendor by way of registered sale deed and that has yet not been cancelled. He added that the applicant and his brothers are instrumental in committing offence and therefore, after investigation, it was found that the applicant was involved in committing offence, thus, submission is that no interference is warranted.

Learned A.G.A. appearing for the State has opposed the contentions aforesaid on merits.

At this stage, learned counsel for the applicant submits that he does not want to press the application and seeks liberty to file bail application before the learned trial court which may be decided in view of law laid by Hon'ble Supreme Court's judgment in the case of **Satender Kumar Antil versus Central Bureau of Investigation and another (2022)10 SCC 51**.

Learned A.G.A. as well as learned counsel for the opposite party no. 2 have no objection to the prayer made by learned counsel for the applicant.

On due consideration to the submissions of learned counsel for the parties', it is provided that in case, the applicant appears before the trial court within two weeks from today and files bail application, the same shall be decided expeditiously in view of law laid down in the case of **Satender Kumar Antil (supra)**.

Further, the applicant will have an opportunity to move an application for discharge within a period of 15 days from today. In case, such an application is moved before the learned trial court, the learned trial court shall dispose of the same by a speaking

and reasoned order strictly, in accordance with law, within further period of 30 days.

Liberty is given to the applicant to move a discharge application through his counsel.

The application is **disposed of** accordingly.

Order Date :- 12.10.2023

AKS