

Court No. - 28

Case :- APPLICATION U/S 482 No. - 9914 of 2023

Applicant :- Mohd. Sageer And Another

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

Counsel for Applicant :- Vashu Deo Mishra

Counsel for Opposite Party :- G.A.

Hon'ble Shree Prakash Singh,J.

Heard Sri Vashu Deo Mishra, learned counsel for the applicants, Sri Sushil Kumar Pandey, 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 order dated 05-10-2023 passed by the learned Chief Judicial Magistrate, Lucknow, in Criminal Complaint No. 546 of 2019(Rabi Kant Singh Versus Jai Singh and another), under sections 406,419,420,467,468,471,120-B of I.P.C., Police Station-Hazratganj, District-Lucknow.

Learned counsel appearing for the applicants submits that initially on 06-07-2018 and 18-07-2018, the complaint was moved by the opposite party no. 2, whereafter, recording the statements, the applicants were summoned and later on, they were sent to jail. He added that thereafter, the applicants moved discharge application before the trial court concerned, which was rejected and being aggrieved, the applicants instituted Criminal Revision No. 517 of 2023(Jai Singh & Others Vs. State of U.P. and another) wherein the revisional court passed the order on 21-08-2023 and the revision was admitted and notice was issued. He further added that the learned trial court ignoring the aforesaid facts, passed the order on 05-10-2023, whereby the exemption application of the applicants was rejected and the non bailable warrant has been issued against the applicant no. 1.

He argued that since the revisional court has admitted the revision and the matter was fixed for

hearing on 27-09-2023 and the next date fixed was 11-10-2023, and ignoring the aforesaid, the impugned order dated 05-10-2023, has been passed in a hasty manner. He added that infact once the revision is admitted, there was no occasion to pass the order issuing the non bailable warrant against the applicant no. 1. He submits that the learned trial court has ignored the settled proposition of law and has erroneously passed the impugned order. Therefore, submission is that the order dated 05-10-2023, may be set aside.

On the other hand, learned A.G.A. appearing for the State has opposed the contentions aforesaid and submits that the exemption application was moved by the applicant no. 1 for prolonging the criminal proceedings and therefore, the learned trial court has rightly passed the order on 05-10-2023 and the instant application is liable to be dismissed.

Having heard learned counsels for the parties and after perusal of material placed on record, it transpires that after rejection of the discharge application, the present applicants filed Criminal Revision bearing no. 517 of 2023 before the revisional court, which was admitted and the date is fixed i.e. 11-10-2023 for hearing.

When this court examines the impugned order dated 05-10-2023 in the light of the settled proposition of law, it transpires that the learned trial court is proceeding in the matter ignoring the order dated 21-08-2023 passed by the revisional court.

In this view of the matter, the non bailable warrant issued by the trial court against the applicant no. 1 is hereby kept in abeyance.

The revisional court is directed to hear and conclude the proceedings of the criminal revision no. 517 of 2023 within a period of two months from the date of this order after affording the opportunity of hearing to parties concerned.

After the period of two months, the trial court is at liberty to proceed, in accordance with law.

The applicants are directed to cooperate with the proceedings of the criminal revision and in case of any deviation, the protection granted above to the applicants, shall stand revoked.

Let a copy of this order be provided to learned counsel for the applicants on payment of usual charges **within 24 hours**.

With the aforesaid observations, the instant application is hereby **allowed**.

Order Date :- 11.10.2023

AKS