

Court No. - 12

Case :- APPLICATION U/S 482 No. - 10028 of 2023

Applicant :- Sandip Kumar Tiwari And 2 Others

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

Counsel for Applicant :- Anurag Shukla

Counsel for Opposite Party :- G.A.

Hon'ble Rajeev Singh,J.

1. Heard learned counsel for the applicants, learned AGA for the respondent-State as well as perused the material on record.

2. This application U/s 482 Cr.P.C. has been filed to quash the charge-sheet dated 18.03.2020 as well as summoning order dated 19.05.2020 and proceedings of Case No.4568 of 2020, Crime No.106 of 2020 dated 27.02.2020 pending before Judicial Magistrate-I, Baharaich.

3. On 26th October, 2023, following order was passed:-

"1. Heard learned counsel for the applicants as well as learned A.G.A. for the State.

2. The present application has been filed for quashing the charge-sheet dated 18.03.2020 as well as summoning order dated 19.05.2020 and proceedings of Case No.4568 of 2020, Crime No.106 of 2020 dated 27.02.2020 pending before Judicial Magistrate-I, Bahraich.

3. Learned counsel for the applicants submits that as per the case diary, it is alleged that the examination paper in question was leaked with association of one Shiva who was computer operator but in the entire investigation, the statement of Shiva-computer operator was not recorded by Investigating Officer and alleged devices were not sent to F.S.L. for examination. It is, thus, submitted that indulgence of this Court is required.

4. List this case on 31.10.2023 at 11:30 a.m.

5. On the next date, Investigating Officer of the case in question as well as Circle Officer concerned shall appear in person before this Court along with complete case diary."

4. In pursuance of the aforesaid order, Shri Rajiv Kumar Sisodiya, Circle Officer of Police Station- Dargah sharif, District- Bahraich is present along with the case diary and categorically informed that during the course of the investigation, statement of Shiva S/o Shankar Banerjee computer operator was recorded, which is mentioned in CD-3 and after detailed investigation, charge sheet was filed and

active involvement of the applicant was also found.

5. Learned counsel for the applicant submitted that the evidences produced by the applicant were not considered by the investigating officer and the charge sheet was filed in a most mechanical manner, therefore, kind indulgence of this Court is necessary. He does not dispute at this stage that the statement of the computer operator was recorded under Section 161 Cr.P.C. and he is an accused in the present case and the charge sheet has also been filed against him.

6. Learned AGA submitted that after detailed investigation, charge sheet has already been filed and the defense of the applicant cannot be considered at this stage. He relied on the decision of the Hon'ble Apex Court in the case of ***C.B.I. Vs. Aryan Singh 2023 SCC Online SC 379***.

7. Considering the submissions of learned counsel for the parties and going through the contents of the petition, it is evident that the investigating officer conducted the investigation and recorded the statement of all persons related to the crime in question and submitted charge sheet and the defense of the applicant cannot be considered in pursuance of the decision relied by learned AGA.

8. In view of the above, the application u/s 482 Cr.P.C. lacks merit and it is, accordingly, **dismissed**.

9. Presence of the officers is hereby discharged.

Order Date :- 31.10.2023

Ashutosh Pandey