

Court No. - 12

Case :- APPLICATION U/S 482 No. - 10131 of 2023

Applicant :- Smt. Shiv Devi And 4 Others

Opposite Party :- State Of U.P. Thru. Prin. Secy. (Home Deptt.) Lko. And Another

Counsel for Applicant :- Arvind Pratap Singh

Counsel for Opposite Party :- G.A.

Hon'ble Rajeev Singh,J.

1. Heard learned counsel for the applicants, learned AGA and perused the record.

2. Present petition is filed with prayer to quash the proceedings of the complaint case no. 51578 of 2022 (Devendra Singh Vs. Ram Chandar & others) pending in the court of Civil Judge, (S.D.), F.T.C. Naveen/A.C.J.M. Gonda.

3. Learned counsel for the applicants submitted that one FIR No.537 of 2020 under Sections 323, 454, 552, 506 I.P.C. was lodged by Shiv devi, applicant no.1 against the private respondent in which chargesheet was filed, thereafter in retaliation the complaint in question was filed on the basis of incorrect facts only with the intention to make pressure on the petitioners and thereafter statements under Section 200 and 202 CrPC was recorded and the summoning order was passed by the learned court below in the most mechanical manner. He also relied on the decision of Hon'ble Apex Court in the case of **Ram Murti Shukla and anr. Vs. State of U.P and anr.** in criminal appeal no. 2788 of 2023 and submitted that in case the prosecution has been initiated with the malafide intention then the proceedings is liable to be set aside, therefore, kind indulgence of this Court is necessary.

4. Learned AGA vehemently opposed the prayer of applicant and submitted that one FIR was lodged by the applicant in the year 2020 and the present complaint in question was filed on 16.11.2022, related to the incident dated 08.11.2022. He also submitted that the mini trial is not permissible under Section 482 CrPC and he also relied on the decision of Hon'ble Apex Court in the case of **CBI Vs. Aryan Singh in 2023 SCC online 389** and submitted that petition is liable to be dismissed.

5. Considering submissions of the parties and going through the contents of petition, as it is evident from the record that in the

present case the alleged incident is of date 08.11.2022 and the evidences collected by the learned Court below before passing the summoning order cannot be evaluated at this stage, therefore petition is mis-conceived and is **dismissed**.

6. However, it is open to the applicants to move bail application before the competent court and in case any such application is moved by the applicant same shall be considered and decided in accordance with law.

Order Date :- 18.10.2023

Vipul