

Court No. - 12

Case :- APPLICATION U/S 482 No. - 10259 of 2023

Applicant :- Gulam Mohammad

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

Counsel for Applicant :- Dinesh Kumar Shukla

Counsel for Opposite Party :- G.A.

Hon'ble Rajeev Singh,J.

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

2. The present application has been filed for quashing the order dated 10.08.2023 passed by learned Additional Session Judge/F.T.C., Naveen Gonda in Session Trail No.287 of 2022 arising out of Case Crime No. 145 of 2017 U/s 323, 504, 308 I.P.C., Police Station- Kaudiya, District- Gonda.

3. Learned counsel for the applicant submits that private respondent had actively participated in the crime in question but due to inadvertent mistake, his name was not named in the N.C.R./F.I.R., thereafter, statement of applicant/informant was recorded U/s 161 Cr.P.C., in which, he stated the role of private respondent but charge-sheet was not filed against private respondent as it was filed against Mohd. Aarif and Mustak. It is further submitted that one application U/s 319 Cr.P.C. was filed by applicant but the same was rejected by learned trial court vide order dated 10.08.2023 in the most mechanical manner. It is, thus, submitted that indulgence of this Court is required.

4. Learned A.G.A. opposes the prayer of applicant and submits that learned trial court rightly rejected the application U/s 319 Cr.P.C. filed by applicant. He further submits that F.I.R. of the case in question was lodged by applicant, in the said F.I.R., private respondent was not named and role of only two persons, namely, Mohd. Arif and Mustaq was assigned; as per the statement of applicant recorded U/s 161 Cr.P.C., it was admitted that he went to police station along with injured person but the injured was not informed about the involvement of private respondent. He further submits that learned trial court also observed that there is no specific allegation in the deposition of applicant, PW-1 and PW-2 recorded before learned trial court against private respondent, therefore, there is no illegality in the order passed by learned trial court.

5. Considering the submissions of learned counsel for the applicant, learned A.G.A. and going through the contents of application as well as other relevant documents; it is evident from the record that F.I.R. of the case in question was lodged by applicant who went to police station along with injured person. It is also evident that private respondent was not named in the said F.I.R. and no evidence was found against private respondent despite his name was mentioned by applicant in his statement recorded U/s 161 Cr.P.C. In such circumstances, learned trial court has rightly appreciated the deposition of witnesses, hence, there is no illegality in the order passed by learned trial court.

6. In view of above, the present application U/s 482 Cr.P.C. is misconceived and, accordingly, stands **dismissed**.

Order Date :- 27.10.2023

Arpan