

Court No. - 28

Case :- APPLICATION U/S 482 No. - 10264 of 2023

Applicant :- Atul Kumar Singh

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

Counsel for Applicant :- Sandeep Kumar Yadav,Abhay Pratap Yadav

Counsel for Opposite Party :- G.A.

Hon'ble Shree Prakash Singh,J.

1. Heard Sri Sandeep Kumar Yadav, learned counsel for the applicant, Sri Nirmal Kumar Pandey, learned A.G.A. for the State and perused the record.

2. The instant application has been filed with following reliefs:-

a. Quash the proceedings of proceedings of Case Crime No.396/2023 (Case No. 17525/2023) U/s-376 I.P.C., pending before the Chief Judicial Magistrate, Barabanki, PS- Kotwali Nagar, District – Barabanki.

b. Quash/set-aside the impugned summoning Order dated 22.07.2023, passed by the Ld. Chief Judicial Magistrate Ct. No. 18, Barabanki, in Case Crime No.396/2023 (Case No. 17525/2023); State Vs Atul Kumar Singh, whereby the accused applicant has been summoned to face trial in the said Case Crime Number under Section 376 of the Indian Penal Code, 1860.

c. Any other and further relief which the Hon'ble Court deems fit and proper in the facts and circumstances of the case may also be granted.

3. Learned counsel appearing for the applicant submits that there is no evidence at all against the applicant and the whole proceeding has been initiated and chargesheet has been filed. He added that the criminal proceedings against the present applicant is nothing but harassment.

4. On the other hand, learned counsel appearing for the State has opposed the contention aforesaid and submits that there is no abuse of process of law and only factual matrix has been agitated before this before this Court and that could not be gone into at this stage, invoking the jurisdiction under Section 482 Cr.P.C. and thus the application is liable to be dismissed.

5. After the argument at length, learned counsel for the applicant submits that interest of justice would be sub-served, if this Court directs the court below to permit the applicant to appear before the court below and file an application of discharge. He further submits that the court below may be directed to decide the discharge application within stipulated period of time, as may be fixed by this Court.

6. Learned AGA for the State has no objection to the aforesaid submission.

7. In view of aforesaid, the applicant is permitted to file an application for discharge before the court below within a period of two weeks from today and if such an application is filed, the same shall be decided within a further period of 30 days, strictly in accordance with law.

8. With the aforesaid observation, the application is **disposed of**.

Order Date :- 18.10.2023
Mayank