

Court No. - 12

Case :- APPLICATION U/S 482 No. - 10537 of 2023

Applicant :- Sunita

Opposite Party :- The State Of U.P. Thru. Prin. Secy. Deptt. Of Home Lko And 3 Others

Counsel for Applicant :- Shiv Pal Singh, Ambrish Kumar

Counsel for Opposite Party :- G.A.

Hon'ble Rajeev Singh, J.

1. Heard learned counsel for the applicant, learned A.G.A. for the State and perused the material brought on record.
2. This application has been filed for quashing the order dated 22.08.2023 passed in Criminal Revision No. 186 of 2022, (Arvind Kumar @ Nanke & Ors. Vs. State of U.P. & Anr.).
3. Learned counsel for the applicant submits that the incident of rape was taken place on 02.10.2011 in the morning at 7.00 a.m., complaint of which was made to the police station, but when the F.I.R. was not lodged, an application under Section 156(3) Cr.P.C. was moved on 14.10.2019. It is further submitted that the aforesaid application was treated as a complaint case, on which, after calling for the police report, the statements under Sections 200 and 202 Cr.P.C. were recorded and the summoning order was passed. It is also submitted that the said order was challenged by the private respondents before the revisional court in Criminal Revision No. 186 of 2022. Submission of the learned counsel for the applicant is that the court below wrongly allowed the said revision, merely considering the defence evidence of private respondents that several civil as well as criminal cases are pending in between the parties. It is vehemently submitted that at the stage of summoning, defence of accused persons cannot be considered and, therefore, the revisional court committed gross illegality in passing the impugned order. It is, thus, submitted that the indulgence of this

Court is necessary.

4. Learned A.G.A. opposes the prayer of the applicant and submits that the revisional court passed the order while considering the fact that the statements of witnesses recorded under Sections 200 and 202 Cr.P.C. were not considered properly as well as the police report was also not discussed in the summoning order. It is also submitted by the learned A.G.A. that the revisional court rightly allowed the revision and remanded the matter to the Magistrate with the observation to pass fresh orders after considering the contents of the complaint as well as statements recorded under Sections 200 and 202 Cr.P.C. as also the police report. It is, thus, submitted that the application is liable to be dismissed.

5. Considering the arguments advanced by the learned counsel for the applicant, learned A.G.A. and going through the contents of the application, complaint, statements under Sections 200 and 202 Cr.P.C. as well as other relevant documents including the impugned order, it is evident that vide impugned order, the revisional court has observed that the Magistrate, while passing the summoning order, has not considered the evidences as well as police report in the correct perspective. It is also evident that the revisional court has remanded the matter to the Magistrate for passing fresh order and there is no illegality in the same.

6. In view of above facts and circumstances, the application is devoid of merit and, accordingly, stands dismissed.

Order Date :- 30.10.2023

VKS