

Court No. - 12

Case :- CRIMINAL REVISION No. - 1220 of 2023

Revisionist :- Rangai And Another

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

Counsel for Revisionist :- Santosh Srivastava,Pooja Devi

Counsel for Opposite Party :- G.A.

Hon'ble Rajeev Singh,J.

1. Heard Ms. Pooja Tewari, learned counsel for the applicants, learned A.G.A. for the State and perused the material brought on record.

2. On 02.11.2023, following order was passed.

"1. Heard Shri Santosh Srivastava, learned counsel for the applicants, 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 07.08.2023 passed in S.T. No. 29 of 2017 arising out of Case Crime No. 671 of 2017, under Sections 376-D, 504, 506 I.P.C., P.S. Haraiya, District Balrampur.

3. Learned counsel for the applicants submits that earlier one F.I.R. was lodged by the wife of the applicant against the husband of the private respondent no. 2 for committing rape, in which, final report was submitted. In retaliation to the same, present F.I.R. bearing Case Crime No. 671 of 2017 was lodged by the respondent no. 2, in which, the Investigating Officer filed the charge sheet merely on the basis of statement of the victim as well as her husband. Thereafter, discharge application was filed, but the court below rejected the same without considering the statement of applicant that the said proceedings are malicious one and have been initiated in retaliation to the F.I.R. lodged by the applicant's side. It is, thus, submitted that the indulgence of this Court is necessary.

4. Learned A.G.A. vehemently opposes the prayer of the applicants and submits that there is no illegality in the order passed by the court below, as the defence of the accused persons cannot be considered at the time of deciding the discharge application.

5. Considering the arguments advanced by the learned counsel for the applicant, learned A.G.A. and going through the contents of the application, impugned order as well as other relevant documents, admittedly, the defence of the accused persons cannot be considered at the time of deciding the discharge application.

6. The application is devoid of merit and stands dismissed.

7. At this stage, Ms. Pooja Tewari, Advocate, who has also put in

appearance on behalf of the applicants, submits that all the facts have not been placed by the counsel and she wants to argue some more points and, therefore, prays for adjournment of the case for tomorrow.

8. In view of above, put up this case tomorrow, i.e., on 03.11.2023 as first case.

9. However, it is made clear that, in case, Ms. Pooja Tewari, learned counsel for the applicants fails to appear on the next date, the matter shall be decided finally."

3. Ms. Tewari submits that in the F.I.R. lodged by the applicants' side, proper investigation was not conducted by the Investigating Officer and submitted the final report. However, in the present F.I.R. bearing Case Crime No. 671 of 2017 lodged by the respondent no. 2, charge sheet was filed against the applicant. It is further submitted that the applicants are aged about 80 years and the charge sheet has been filed in mechanical manner. She lastly submits that the impugned order dated 07.08.2023 passed by the court below rejecting the discharge application, may be set aside and the matter may be remanded back.

4. Learned A.G.A., while opposing the prayer of the learned counsel for the applicants, reiterates his submissions made on the last date, i.e., on 02.11.2023 that there is no illegality in the impugned order passed by the court below and the present application has rightly been dismissed yesterday by observing that the defence of the accused persons cannot be considered at the time of deciding the discharge application. Moreover, the charges have already been framed.

5. Considering the arguments advanced by the learned counsel for the applicant, learned A.G.A. and going through the contents of the application as well as other relevant documents including the order dated 02.11.2023, it is evident that the court below has rightly rejected the discharge application by appreciating the evidences collected by the Investigating Officer. Further, no fresh argument other than the submissions made yesterday on behalf of the applicants, has been raised by Ms. Tewari, which may require any interference.

6. The application has no merit and, accordingly, stands dismissed.

Order Date :- 3.11.2023

VKS