

Court No. - 15

Case :- CRIMINAL APPEAL No. - 3057 of 2023

Appellant :- Pairu And 2 Others

Respondent :- State Of U.P. Thru. Addl. Chief Secy. Home Deptt. Lko And Another

Counsel for Appellant :- Sudhaker Prakash

Counsel for Respondent :- G.A.

Hon'ble Shamim Ahmed,J.

Heard Sri Sudhaker Prakash, learned counsel for the appellants and learned A.G.A. for the State and perused the record.

The instant Criminal Appeal under Section 14-A(1) of the S.C./S.T. Act has been moved on behalf of the appellants, Pairu, Akbal and Mehndi with a prayer to quash the impugned order dated 22.09.2023 passed by learned Special Judge, S.C./S.T. Act, Sitapur in Sessions Case No.1801 of 2023, arising out of Case Crime No.286 of 2023, under Sections 302, 201 I.P.C. and Section 3(2)(V) S.C./S.T. Act, Police Station Biswan, District Sitapur as well as to quash the charge sheet dated 20.09.2023 submitted by the Investigating Officer in the aforesaid case.

All the contentions raised by the appellant's counsel relate to disputed questions of fact. The court has also been called upon to adjudge the testimonial worth of prosecution evidence and evaluate the same on the basis of various intricacies of factual details which have been touched upon by learned counsel. The veracity and credibility of material furnished on behalf of the prosecution has been questioned and false implication has been pleaded. In the process of invoking its inherent jurisdiction, this court cannot be persuaded to have a pre trial before the actual trial begins. The submissions made by the learned counsel call for adjudication on pure questions of fact which may be adequately adjudicated upon only by the trial court and while doing so even the submissions made on points of law can also be more appropriately gone into by the trial court in this case.

The quashing of the charge sheet and the entire proceedings can also be done only if it does not disclose any offence or if there is any legal bar which prohibits the proceedings on its basis. The Apex Court decisions in the case of **R.P. Kapur Vs. State of Punjab AIR 1960 SC 866**, **State of Haryana Vs. Bhajan Lal 1992 SCC(Cr.) 426**, **State of Bihar Vs. P.P. Sharma, 1992 SCC (Cri.) 192** and also in **Zandu Pharmaceutical Works**

Ltd. Vs. Mohd. Saraful Haq and another, (Para-10) 2005 SCC (Cri.) 283 make the position of law in this regard clear.

From the aforesaid decisions the Apex Court has settled the legal position for quashing of the proceedings at the initial stage. The test to be applied by the court is to whether uncontroverted allegation as made prima facie establishes the offence and the chances of ultimate conviction is bleak and no useful purpose is likely to be served by allowing criminal proceedings to be continued. In **S.W. Palankattkar & others Vs. State of Bihar, 2002 (44) ACC 168**, it has been held by the Hon'ble Apex Court that quashing of the criminal proceedings is an exception than a rule. The inherent powers of the High Court itself envisages three circumstances under which the inherent jurisdiction may be exercised:-(i) to give effect an order under the Code, (ii) to prevent abuse of the process of the court ; (iii) to otherwise secure the ends of justice. The power of High Court is very wide but should be exercised very cautiously to do real and substantial justice for which the court alone exists.

The High Court would not embark upon an inquiry as it is the function of the Trial Judge/Court. The interference at the threshold of quashing of the criminal proceedings in case in hand cannot be said to be exceptional as it discloses prima facie commission of an offence. **In the result, the prayer for quashing of summoning order, charge sheet as well as entire proceedings in pursuance thereof is refused.**

With the above observations, this appeal stands **dismissed**.

Order Date :- 1.11.2023
Saurabh