

Court No. - 12

Case :- APPLICATION U/S 482 No. - 10757 of 2023

Applicant :- Ram Pratap Yadav @ Chhedu

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

Counsel for Applicant :- R.B.S. Rathaur

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 record.
2. Present application has been moved by the applicant for quashing the order dated 09.10.2023 passed by Additional District and Sessions Judge/F.T.C. (M.P./M.L.A. Court), Unnao in S.T. No.23 of 2016 under Sections 302 and 201 of I.P.C., P.S. Barasagwar, District- Unnao (State Vs. Ram Pratap Singh and Ors.)
3. Learned counsel for the applicant submitted that the due to fault of applicant's counsel, P.W.2, namely, Ram Phal could not be cross-examined, and thereafter, application under Section 311 Cr.P.C. was moved which was earlier allowed with cost but again his counsel could not appear to cross-examine the witness, and thereafter, the opportunity was closed, and again, application was moved to cross-examine P.W.2 which was rejected by the trial court. He further submitted that for substantial justice, it is necessary to cross-examine the witness, therefore, application may be allowed. He further submitted that the applicant is ready to deposit the cost and he will arrange his counsel as this opportunity may not be a futile one.
4. Learned A.G.A. opposed the prayer of applicant and submitted that ample opportunity was given to cross-examine the witness but witness was not cross-examined, therefore, trial court has rightly rejected the application of applicant.
5. Considering the submissions of learned counsel for the parties, going through the contents of application, as well as other relevant documents, as on the fault of applicant's counsel, the applicant may not be victimized, as the right to cross-examination is important right for substantial justice, therefore, this Court is of the view that one opportunity be given to the applicant for cross-examination of the aforesaid witnesses.
6. Accordingly, the present application is allowed and impugned

order dated 09.10.2023 passed by Additional District and Sessions Judge/F.T.C. (M.P./M.L.A. Court) is hereby set aside.

7. Trial court is directed to fix one date for cross-examining the P.W.2, namely, Ram Phal on the cost of Rs.5000/- and the same shall be remitted to P.W.2, namely, Ram Phal.

Order Date :- 2.11.2023

V. Sinha