

Court No. - 12

Case :- APPLICATION U/S 482 No. - 11012 of 2023

Applicant :- Babu And 9 Others

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

Counsel for Applicant :- Gulam Mustafa

Counsel for Opposite Party :- G.A.

Hon'ble Rajeev Singh,J.

1. Heard learned counsel for the applicants, learned A.G.A. for the State and perused the record.

2. Present application has been moved by the applicants for quashing the summoning order dated 04.03.2016 passed by A.C.J.M., Court No.2, Hardoi in Criminal Case No.1354 of 2014 under Sections 323, 504, 506, 435 I.P.C., P.S. Mallawan, District- Hardoi as well as Non-bailable warrant dated 04/05.05.2023 issued by A.C.J.M.-I, Hardoi.

3. Learned counsel for the applicants submitted that the applicants are innocent persons and have been falsely implicated in this case. He further submitted that one complaint was filed by the wife of private respondent, namely, Savitri Devi in the Court of A.C.J.M.-I, Unnao which was treated as a complaint case bearing no.1107/2014, in which, summoning order was passed on 19.07.2016 against the applicant, and simultaneously, private respondent also filed complaint before the A.C.J.M.-II, Hardoi with the identical allegation and only place of incident was changed by mentioning the different place which comes into the jurisdiction of P.S. Mallawan, District-Hardoi and the summoning order was passed by the trial court without considering the contents of the complaint as well as statement recorded under Sections 200 and 202 Cr.P.C. He further submitted that private respondent concealed this fact that the his wife has also lodged one complaint against the applicants which is pending before A.C.J.M.-I, Unnao. He further submitted that the prosecution in question is a malicious one, therefore, kind indulgence of this Court is necessary.

4. Learned A.G.A. opposed the prayer of applicants and drew attention of the Court at page 33 of the application which is a complaint which was filed by Smt. Savitri Devi who is wife of private respondent, namely Beche Lal, and in the aforesaid complaint, it is mentioned that Beche Lal was no more at the time of filing of the complaint which was filed by Smt. Savitri

Devi even then Beche Lal has been arrayed as a respondent in the present case. He further submitted that a dead person cannot be arrayed as a party in the application. He further submitted that alleged offences are made out after considering the statement recorded under Sections 200 and 202 Cr.P.C. and the trial court has rightly passed the summoning order, therefore, present applicant is liable to be dismissed.

5. Considering the submissions of learned counsel for the parties, going through the contents of application, as well as other relevant documents, as it is evident from the record that two complaints were filed; one was filed by Smt. Savitri Devi and the other one was filed by Beche Lal/husband of Smt. Savitri Devi in different courts and in both the complaint, date, time and place are different, therefore, this argument of learned counsel for the applicant that only by changing the place, two complaints were lodged by the private respondent and his wife is incorrect, as it is also evident that prima facie offence is made out, trial court has rightly passed the summoning order, as it is also evident from the record that private respondent, Beche Lal was no more at the time of filing of the complaint by Savitri Devi on 10.11.2014 even then he has been arrayed as a respondent in the present application, therefore, I am of the view that the present application is misconceived and liable to be dismissed.

6. Accordingly, the application is hereby dismissed.

Order Date :- 8.11.2023

V. Sinha