

Court No. - 12

Case :- APPLICATION U/S 482 No. - 11024 of 2023

Applicant :- Gokaran Prasad And Another

Opposite Party :- State Of U.P. Thru. Prin. Secy. Deptt. Of Home Civil Sectt. Lko And Another

Counsel for Applicant :- Pradeep Kumar Sen

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 material available on record.

2. This application has been filed with the following prayer:-

"to quash the proceeding of the impugned Complainant as well as summoning order dated 20.8.2018 passed in Criminal complaint No. 3020/2015, under sections 427,506, IPC. Police station Gudamba, District Lucknow in re: Aadil Farukha Versus Gokaran Prasad and others by the Judicial Magistrate IInd, Lucknow against the applicants in the interest of justice.

It is further prayed that this Hon'ble court may kindly be pleased to stay the proceeding of the Criminal Complaint no. 3020/2015 now pending before the additional Chief Judicial Magistrate first, Lucknow in the circumstances of the case during the pendency of the present application"

3. Learned counsel for the applicant submitted that there was a dispute related to the possession over the property, khasra no. 230 and 232, as 230 is ancestral property of the private respondent and 232 belongs to the applicant. A suit for permanent injunction was filed by the applicant before Civil Judge Havali (Junior Division) Lucknow which was registered as regular suit no. 974 of 2015 against the private respondent on 24.07.2015, in which notices were issued and the proceedings were going on and then only with the intention to make pressure on the petitioners, application under Section 156 (3) CrPC was filed, which was treated as a complaint case and he also submitted merely on the basis of statement recorded under Section 200 and 202 CrPC summoning order was passed by the learned court below, as proceedings of the case are still going on therefore, kind indulgence of this Court is necessary.

4. Learned AGA opposed the prayer of the applicant and submitted as the case in question is pending since 2015 and the summoning order was passed in the year 2018 and it is also

admitted by the applicant that applicant no.1 has been enlarged on bail and the defense of the applicant cannot be considered at this stage, therefore petition is mis-conceived and is liable to be dismissed.

5. Considering the submissions of learned counsel for the parties and going through the record as well as the statements recorded under Section 200 and 202 CrPC, summoning order was passed in the year 2018, as the defense of the applicant cannot be considered at this stage, therefore petition is mis-concieved and is accordingly **dismissed**.

6. However, it is open to the applicant no.2 that he may move bail application before the Court below, in case any such application is moved then it shall be considered and decided strictly in accordance with law laid down by Honb'le Apex Court in the case of *Satendra Kumar Antil Vs. Central Bureau of Investigation and another (Special Leave to Appeal (Crl.) No.5191 of 2021)*.

Order Date :- 8.11.2023

Vipul