

Court No. - 12

Case :- APPLICATION U/S 482 No. - 11525 of 2023

Applicant :- Munshi Singh And 2 Others

Opposite Party :- State Of U.P. Thru. Prin. Secy. Home Deptt.
Lucknow

Counsel for Applicant :- Avinash Kumar Srivastava

Counsel for Opposite Party :- G.A.

Hon'ble Rajeev Singh,J.

1. Heard learned counsel for the applicant and learned A.G.A. for the State and also perused the record.

2. This application under Section 482 Cr.P.C. has been filed by the applicant with the following prayer:-

"To quash the order dated 11.01.2023 and recall the non bailable warrant (N.B.W.) issued against the petitioners due to non- appearance by learned IVth Additional Session Judge, Bahraich on account of failing to appear before trial court in S.T. No. 1333 of 2021, State Vs. Ram Kumar and others, (arising out of case Crime No. 432 of 2012, P.S.- Hardi, Baharich,) U/sections-323, 504,506,324, 325,308 IPC."

3. Learned counsel for the applicant submitted that the applicants are the poor persons and on the advise of their counsel they went to Punjab to gain employment. As the deed was not intimated by their counsel, therefore they could not appear before this Court, as a result of which N.B.W. have been issued by the Trial Court below. Learned counsel for the applicant submitted that they will appear before the Trial Court on next date fixed and they will cooperate in the trial and they will not leave the district till the conclusion of trial.

4. Learned AGA opposed the prayer of the applicant and submitted that trial of the case is pending since 2019 and till today chargesheet has not been filed due to absence of the applicants.

5. Considering the submissions of learned counsel for the parties and going through the contents of petition, as it is evident that the absence of the applicants was due to the fault of their counsel and for the fault of counsel, their client should not be victimized. As all the offenses in the present case are punishable up to seven years, therefore this Court is of the view that the impugned order date 11.01.2023 is liable to be set

aside.

6. Accordingly, the application under Section 482 CrPC is **allowed** and the impugned order dated 11.01.2023 and its consequential orders are quashed, with a direction to the applicants to appear before the trial Court on the next date fixed.

7. Trial Court is also directed to conclude the trial of the case expeditiously.

Order Date :- 24.11.2023

Vipul