Court No. - 12
Case :- APPLICATION U/S 482 No. - 11674 of 2023
Applicant :- Naseem And 3 Others
Opposite Party :- State Of U.P. Thru. Prin. Secy. Home, U.P. Lucknow And Another
Counsel for Applicant :- Shashank Shukla,Prachi Shukla
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 brought on record.

2. This application has been filed for quashing the summoning order dated 23.02.2023 passed in Case No. 1365 of 2022, under Sections 452, 506 I.P.C. as well as order dated 12.07.2023 passed in Criminal Revision No. 128 of 2023.

3. Learned counsel for the applicants submits that the complaint in question was filed on 11.11.2021 with the allegation that on 23.06.2021, the applicants forcibly entered into the house of respondent no. 2 at 1.30 p.m. armed with lathi, danda and country made pistol with the intention to take possession over the property and in the said incident, cash as well as other house hold articles were looted. Thereafter, an application was also moved by respondent no. 2 for lodging of the F.I.R. on 01.05.2023 before S.H.O., Khargupur, District Gonda, on which, F.I.R. No. 137 of 2023 was lodged under Sections 419, 420, 467, 468, 471, 504, 506 I.P.C., P.S. Khargupur, District Gonda, in which, final report was submitted after detail investigation. Thereafter, an application under Section 156(3) Cr.P.C. was also moved for lodging of the F.I.R., which is treated as a complaint case. i.e., Case No. 1365 of 2022 (supra). It is also submitted that one F.I.R. No. 45 of 2023 was lodged under Sections 467, 468, 471, 504, 506, 419, 420 I.P.C. from the applicants' side against the private respondent, in which, investigation is still pending.

4. Submission of the learned counsel for the applicants is

that the genesis of the dispute is one house, in relation of which, civil dispute is pending before the Civil Judge (Junior Division), Gonda and the impugned proceedings have been initiated only with the intention to make pressure on the applicants. It is vehemently submitted that two proceedings, one by way of F.I.R. and another by way of complaint, cannot be initiated. It is, thus, submitted that the indulgence of this Court is necessary.

5. Learned A.G.A. opposes the prayer of the applicants and submits that in both the cases, allegations are entirely different. In the F.I.R., basically the allegations are for interpolation in the record, however, in the present complaint, allegation was for taking away house hold articles and also taking possession over the property in question by the associates of private respondent. It is also submitted that even in relation to same incident, one complaint as well as one F.I.R. has been lodged, then also as per the provisions of Section 210 Cr.P.C., trial of both the cases can be clubbed and run simultaneously. It is lastly submitted that the revision has already been dismissed by the revisional court and there is no illegality in the order passed by the court below. It is, thus, submitted that the application is liable to be dismissed.

6. Considering the arguments advanced by the learned counsel for the applicants, learned A.G.A. and going through the contents of the application, impugned order as well as other relevant documents, it is evident that in the complaint, the allegations are entirely different from the details of the incident mentioned in the F.I.R. It is also evident that the facts mentioned in the complaint, are also narrated in the aforesaid F.I.R. In view of above facts and circumstances, there is no illegality in the orders passed by the court below.

7. The application is misconceived and stands dismissed.

Order Date :- 7.12.2023
VKS

Digitally signed by :-
VIVEK KUMAR SRIVASTAVA
High Court of Judicature at Allahabad,
Lucknow Bench