

Court No. - 12

Case :- APPLICATION U/S 482 No. - 11638 of 2023

Applicant :- Mohd. Tarif

Opposite Party :- State Of U.P. Thru. Prin. Secy. Home, U.P. Lucknow
And Another

Counsel for Applicant :- Manoj Kumar Mishra, Yugal Kishor Tripathi

Counsel for Opposite Party :- G.A.

Hon'ble Rajeev Singh,J.

1. Heard Shri Manoj Kumar Mishra, learned counsel for the applicant, learned A.G.A. for the State and perused the material brought on record.

2. This application has been filed for quashing the charge sheet dated 03.04.2023 as well as summoning order dated 27.04.2023 passed in Criminal Case No. 7467 of 2023, (State Vs. Mohd. Tarif) arising out of F.I.R. No. 595 of 2022, under Sections 376, 506 I.P.C., P.S. Antu, District Pratapgarh.

3. Learned counsel for the applicant submits that applicant has falsely been implicated in the present case. It is further submitted that there was some dispute in between the informant and the family of the applicant. It is also submitted that the applicant was selected in Army and, therefore, the private respondent no. 2 was insisting for solemnizing marriage with the victim, to which, applicant and his family members denied. It is next submitted that there is major contradiction in the investigation. It is lastly submitted that the applicant challenged the F.I.R. by filing Crl. Misc. Writ Petition No. 2180 of 2023, in which, protection was also granted till the submission of the police report. It is, thus, submitted that the indulgence of this Court is necessary.

4. Learned A.G.A., while opposing the prayer of the applicant, submits that during the course of investigation,

statement of the victim was recorded under Sections 161 and 164 Cr.P.C., in which, she categorically supported the prosecution version. Her medico legal examination was also conducted. It is further submitted that the statement of the victim was also recorded by the doctor, in which also, she supported the prosecution version. Learned A.G.A. vehemently submits that merely on the ground that there is flaw in the investigation, the charge sheet cannot be quashed in heinous offence of rape. It is, thus, submitted that the application is liable to be dismissed.

5. Considering the arguments advanced by the learned counsel for the applicant, learned A.G.A. and going through the contents of the application, F.I.R., statement of the victim recorded under Sections 161 and 164 Cr.P.C. as well as statement recorded by the doctor and other relevant documents, it is evident that the victim categorically supported the prosecution version in her statements under Sections 161 and 164 Cr.P.C. She also corroborated the version of the prosecution before the doctor.

6. In view of above facts and circumstances, the present application is devoid of merit and is dismissed.

7. However, it is open to the applicant to move discharge application before the court below and, in case, any such application is moved, it is expected from the court below to consider and decide the same by means of a reasoned order expeditiously, in accordance with law.

Order Date :- 29.11.2023

VKS