

Court No. - 23

Case :- APPLICATION U/S 482 No. - 11942 of 2023

Applicant :- Yashram Verma

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

Counsel for Applicant :- Bhimbahadur Singh

Counsel for Opposite Party :- G.A.

Hon'ble Ajai Kumar Srivastava-I,J.

1. Heard Sri Bhimbahadur Singh, learned counsel for the applicant, Sri Ravi Srivastava, learned A.G.A for the State and perused the entire record.

2. This application under Section 482 Cr.P.C. has been filed by the applicant for quashing the proceeding of Case No.2668 of 2022 titled as Nisha Verma vs. Yashram Verma and others, under Sections 323, 498A I.P.C. and Sections 3/4 D.P. Act, Police Station Baskhari, District Ambedkar Nagar, pending in the court of learned Additional Chief Judicial Magistrate, Ambedkar Nagar as well as non-bailable warrant order dated 24.05.2023.

3. Learned counsel for the applicant has submitted that accused/ applicant is innocent, who has been falsely implicated in this case due to some ulterior reason.

4. His further submission is that the summoning order is not in conformity with the statement of the complainant recorded under Section 200 Cr.P.C. and statements of witnesses recorded

under Section 202 Cr.P.C. His further submission is that the learned trial Court while passing the summoning order has failed to appreciate the fact that the complainant's version of the incident, as stated in the complaint, is not substantiated by the statement of the complainant recorded under Section 200 Cr.P.C. and the statement of witnesses recorded under Section 202 Cr.P.C. Thus, he has contended that even *prima facie* no offence is disclosed against the applicant, despite this fact, he has been summoned to face the trial which is nothing but malicious prosecution and an abuse of the process of the Court.

5. Per contra, learned A.G.A. controverts the submissions of learned counsel for the applicant on the ground that this is not a stage where minute and meticulous exercise with regard to the appreciation of evidence may be done and truthfulness of the allegations could only be tested in a criminal trial. At this initial stage, the fact of innocence of the applicant can also not be determined.

6. Learned A.G.A. further submits that the sufficiency of the material and the test to be applied at the stage of issue of process has been considered in the case of **Nupur Talwar vs. Central Bureau of Investigation and Another** reported in **(2012) 11 SCC 465**, wherein it has been reiterated that the test to be applied at the stage was whether the material placed before the Magistrate was "sufficient for proceeding against

the accused" and not "sufficient to prove and establish the guilt".

7. On the basis of the aforesaid, he submits that no interference with the impugned non-bailable warrant order and proceedings is warranted at this stage and, therefore, the application is misconceived and is liable to be dismissed.

8. Having heard learned counsel for parties and upon perusal of the records, it transpires that the allegations in the complaint have been found to be duly corroborated by the statement made on oath by the complainant during the course of examination under Section 200 Cr.P.C. and also the statements of witnesses recorded during inquiry made by the learned Magistrate under Section 202 Cr.P.C.. The impugned order has been passed referring the aforesaid statements recorded under Section 200 Cr.P.C. and under Section 202 Cr.P.C. and only thereafter, impugned summoning order has been passed. Therefore, at this initial stage, no ground for quashing the impugned non-bailable warrant order and the proceedings of aforesaid case is made out.

9. Accordingly, prayer of quashing the impugned non-bailable warrant order and the entire proceedings is hereby refused.

10. However, it is needless to mention here that in the eventuality of filing of any application by the applicant for cancellation of process issued against him/ praying for bail, the learned trial court shall

dispose of such application on its own merits keeping in view the law laid down by the Hon'ble Supreme Court in **Raghuvansh Dewanchand Bhasin vs. State of Maharashtra** reported in **(2012) 9 SCC 791**, **Inder Mohan Goswami and another vs. State of Uttaranchal and others** reported in **(2007) 12 SCC 1** and **Satender Kumar Antill vs. Central Bureau of Investigation and others** reported in **MANU/SC/1024/2021** by keeping the process(s), which was issued against the applicant, in abeyance for a period of four weeks from today only.

11. It is made clear that in case the present applicant fails to avail the benefit as aforesaid within the stipulated period, the same shall automatically cease to exist without any further reference to this Court.

12. With the aforesaid observations, the instant application under Section 482 Cr.P.C. is finally **disposed of.**

(Ajai Kumar Srivastava-I, J.)

Order Date :- 8.12.2023

cks/-