

Court No. - 12

Case :- APPLICATION U/S 482 No. - 12009 of 2023

Applicant :- Suraj Singh @ Kallu Singh And Another

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

Counsel for Applicant :- Smriti

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 order dated 02.05.2023 passed in S.T. No. 451 of 2019 arising out of F.I.R. No. 401 of 2019, under Sections 498-A, 304-B, 315, 302 I.P.C. and Section 3/4 of D.P. Act, P.S. Jaisinghpur, District Sultanpur.
3. Learned counsel for the applicants submits that the application moved by the applicants under Section 311 Cr.P.C. was rejected by the court below vide impugned order in mechanical manner. It is vehemently submitted that during the course of cross-examination of P.W. 1 and P.W. 2, certain questions could not be asked by the counsel for the accused and, therefore, in the interest of justice, opportunity ought to have been granted by the court below. It is, thus, submitted that the indulgence of this Court is necessary.
4. Learned A.G.A., while opposing the prayer of the applicants, submits that it is a case of dowry death, in which, the sister of the informant died within one year from the date of marriage. Learned A.G.A. vehemently submits that ample opportunity was given to the applicants for cross-examination of the witnesses and they were cross-examined in detail. It is further submitted that vague application under Section 311 Cr.P.C. was moved by the applicants only with the intention to delay the trial. It is

also submitted that the trial of the case in question was expedited by this Court at the time of rejection of the bail application of the accused persons and now the proceedings are going on at the stage of defence evidence. It is lastly submitted that only with the intention to fill up the lacuna, the witness cannot be called. It is, thus, submitted that the present application is liable to be dismissed.

5. 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 ample opportunity was given to the defence for cross-examining the witnesses and they have already been cross-examined in detail. Further, it is admitted case of the parties that trial is at the stage of defence evidence. It is also evident that only with the intention to fill up the lacuna, application under Section 311 Cr.P.C. cannot be allowed.

6. In view of above facts and circumstances, there is no illegality in the order passed by the court below.

7. The application is misconceived and stands dismissed.

Order Date :- 11.12.2023

VKS