

Court No. - 12

Case :- APPLICATION U/S 482 No. - 12059 of 2023

Applicant :- Smt.Uma Tiwari @ Usha And Another

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

Counsel for Applicant :- Farooqahmad

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 record.
2. Present application has been moved by the applicants for quashing the summoning order dated 05.07.023 passed by Chief Judicial Magistrate, Unnao in Criminal Case No.7538/2023 and charge sheet dated 24.05.2023 in Case Crime No.26 of 2023 U/S 467, 468, 452, 323, 471, 120B and 506 I.P.C., P.S. Kotwali, District- Unnao.
3. Learned counsel for the applicants submitted that on 15.10.2020, adoption deed was executed by Vijay Kumar Shukla, through which, Annu Shukla aged about 25 year was adopted, thereafter, Vijay Kumar Shukla died and on the basis of adoption deed, Annu Shukla claimed inheritance in his property, thereafter, dispute was arisen. He further submitted that the private respondent is an imposter and she is wife of one Rohit Pathak claiming herself to be wife of late Vijay Kumar Shukla and she lodged F.I.R. with the allegation that no adoption deed was executed by Vijay Kumar Shukla for adoption of Annu Shukla. He further submitted that several disputes related to the property of Vijay Kumar Shukla are pending before the civil court but without considering all these facts, charge sheet was filed by the Investigating Officer in the most mechanical manner, as the applicant no.1 is the biological mother of Annu Shukla and applicant no.2 is one of the witnesses. He further submitted that the prosecution is a malicious one as the alleged F.I.R. was lodged with the intention to grab the property of late Vijay Kumar Shukla. He further submitted that the alleged F.I.R. was also challenged before the Writ Court, in which, protection was granted on the ground that civil proceedings are pending related to the property of Vijay Kumar Shukla, therefore, kind indulgence of this Court is necessary.
4. Learned A.G.A. opposed the prayer of applicants and

submitted that as per the prosecution case, alleged adoption deed was executed by some imposter and not be late Vijay Kumar Shukla. He further submitted that during the course of investigation, involvement of the applicants was found in the present case and all these facts were considered by the Investigating Officer, thereafter, the charge sheet was submitted, therefore, applicant is liable to be dismissed.

5. Considering the submissions of learned counsel for the parties, going through the contents of application, as well as other relevant documents, as the charge sheet was filed by the Investigating Officer with the observation that the adoption deed was executed by some imposter and not by late Vijay Kumar Shukla, as the involvement of applicants was shown by the Investigating Officer on the basis of evidences collected during the course of investigation, as it is well settled by the Hon'ble Apex Court in the case of ***C.B.I. Vs. Aryan Singh*** reported in ***2023 SCC OnLine SC 379*** that the evidences collected by the Investigating Officer as well as the defence of the accused cannot be considered at this stage, therefore, I am of the view that the application is liable to be rejected.

6. Accordingly, the application is hereby **dismissed**.

7. At this stage, learned counsel for the applicants prays that he may be permitted to move discharge application through counsel and suitable directions may be issued for expeditious disposal of the same.

8. In view of above, it is provided that applicants permitted to move their discharge application(s) through counsel within four weeks' from today and in case any such application(s) are being filed, same shall be heard and decided expeditiously after hearing the parties, in accordance with law, by means of a reasoned and speaking order.

Order Date :- 12.12.2023

V. Sinha