

Court No. - 15

Case :- APPLICATION U/S 482 No. - 12166 of 2023

Applicant :- Anwar Hussain

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

Counsel for Applicant :- Syed Ahmad Mehdi, Shobh Nath
Pandey

Counsel for Opposite Party :- G.A.

Hon'ble Shamim Ahmed, J.

Heard Sri Shobh Nath Pandey, learned counsel for the applicant and Sri Madhumay Mishra, learned A.G.A. for the State as well as perused the record.

The instant Application under Section 482 Cr.P.C. has been moved with a prayer to set aside the order dated 20.06.2023 passed by the learned Additional Sessions Judge / F.T.C. First, Ayodhya / Faizabad, whereby the application moved by the applicant through his counsel for recall of the prosecution witness has been rejected as well as to permit the counsel for petitioner for cross examination of alleged victim and the counsel who has verified the affidavit in Sessions Trial No.116 of 2019, Case Crime No.115 of 2018, under Sections 366, 323, 346, 376-D I.P.C., Police Station Kumarganj, District Ayodhya.

Learned counsel for the applicant submits that the applicant has moved an application under Section 311 Cr.P.C. before the learned court below for fresh cross-examination of the victim. He further submits that in the proceedings of the present case, the entire evidence has been completed and the case is fixed for statement under Section 313 Cr.P.C. of the accused. He further submits that the victim may be called for fresh cross-examination for better adjudication of the case.

Learned A.G.A. for the State opposed the prayer made by learned counsel for the applicant and he submits that the impugned order dated 20.06.2023 by which application under Section 311 Cr.P.C. moved by the applicant was rejected has been rightly passed. There is no infirmity or illegality in the impugned order. The entire evidence is completed and the accused has been called for his statement to be recorded under Section 313 Cr.P.C. It is just a ploy adopted by the applicant to delay the trial by moving the aforesaid application under Section 311 Cr.P.C. There is no justification to call the victim

for her fresh cross-examination.

After considering the arguments advanced by learned counsel for the respective parties as well as after perusal of the impugned order, it appears that the learned court below has rightly rejected the application under Section 311 Cr.P.C. moved by the applicant before the learned trial court as the same is moved only with intention to delay the proceedings of trial. The victim has already been cross-examined and the matter is fixed for statement of the accused to be recorded under Section 313 Cr.P.C. Thus, this Court finds no proper justification to entertain the instant application under Section 482 Cr.P.C. and also to interfere in the impugned order dated 20.06.2023 passed by the learned court below as the same has been rightly passed and there is no infirmity or illegality in the impugned order.

With the aforesaid observations, it appears that the present application under Section 482 Cr.P.C. is devoid of merits and deserves to be dismissed, which is accordingly **dismissed**.

However, in the facts and circumstances of the case the lower court concerned is directed to expedite and conclude the proceedings of the aforesaid case expeditiously, preferably within a period of six months without granting any unnecessary adjournment to either of the parties from the date of receiving of copy of this order, unless there is some legal impediment or unless there is any order passed by the higher court staying the proceedings of the case.

Office is directed to communicate this order to the learned court below concerned immediately.

Order Date :- 14.12.2023

Saurabh