

Court No. - 12

Case :- APPLICATION U/S 482 No. - 12234 of 2023

Applicant :- Varish

Opposite Party :- State Of U.P. Thru. Secy. Home, Lko.

Counsel for Applicant :- Askari Husain, Digvijay Singh

Counsel for Opposite Party :- G.A.

Hon'ble Rajeev Singh, J.

1. Heard learned counsel for the applicant as well as learned A.G.A. for the State and perused the record.
2. The present application has been filed for quashing the order dated 05.10.2023 passed by learned Additional District and Sessions Judge /F.T.C.-III, Raebareli; for issuing direction to learned Additional District and Sessions Judge /F.T.C.-III, Raebareli to reconsider the application under Section 311 Cr.P.C moved by applicant.
3. Learned counsel for the applicant submits that one letter was written by Investigating Officer to Medical Officer, Dr. Sunil Agarwal who conducted the postmortem of the body of deceased, the said correspondence is part of record but during the course of examination-in-chief of Dr. Sunil Agarwal, the said letter was not proved by him. It is further submitted that one application U/s 311 Cr.P.C. was moved by applicant for recalling the aforesaid doctor who conducted the postmortem but the said application was rejected by learned trial court in the most mechanical manner. It is, thus, submitted that indulgence of this Court is required.
4. Learned A.G.A. vehemently opposes the prayer of applicant and submits that Dr. Sunil Agarwal was examined and cross-examined as P.W.-6 before learned trial court, and he proved the postmortem in his deposition by narrating all the facts being an expert. He also submits that there is no illegality in the order passed by learned trial court.
5. Considering the submissions of learned counsel for the applicant, learned A.G.A. and going through the contents of application, the impugned order, deposition of P.W.-6 as well as other relevant documents; it is evident that Dr. Sunil Agarwal was examined and cross-examined in detail before the trial court and he proved the postmortem which was prepared after conducting the autopsy of the body of deceased. The

correspondence between Investigating Officer and aforesaid Medical Officer is not needed to be proved; being an expert, the doctor stated all the material things in his deposition before trial court. Therefore, learned trial court has rightly rejected the application U/s 311 Cr.P.C. moved by applicant.

6. With the above observations, this Court is of the view that the present application U/s 482 Cr.P.C. lacks merit and accordingly, stands **dismissed**.

Order Date :- 15.12.2023

Arpan