Court No. - 15

Case :- APPLICATION U/S 482 No. - 12228 of 2023

Applicant :- Ashok Kumar
Opposite Party :- State Of U.P. Thru. Prin. Secy. Deptt. Home, Lucknow And Another
Counsel for Applicant :- Mohd Salim Siddiqui
Counsel for Opposite Party :- G.A.

Hon'ble Shamim Ahmed,J.

Heard learned counsel for the appellant and learned A.G.A. for the State and perused the record.

The instant appeal has been moved on behalf of the appellant Ashok Kumar with a prayer to quash the entire proceedings of Criminal Case No. 50131 of 2020 arising out of Case Crime No. 264 of 2017, under Sections 376, 328, 254(C), 506, 386 I.PC., Police Station Qaiserbagh, District Lucknow, as well as to quash the charge sheet dated 18.02.2018 submitted in the aforesaid case.

All the contentions raised by the appellant's counsel relate to disputed questions of fact. The court has also been called upon to adjudge the testimonial worth of prosecution evidence and evaluate the same on the basis of various intricacies of factual details which have been touched upon by learned counsel. The veracity and credibility of material furnished on behalf of the prosecution has been questioned and false implication has been pleaded. In the process of invoking its inherent jurisdiction, this court cannot be persuaded to have a pre trial before the actual trial begins. The submissions made by the learned counsel call for adjudication on pure questions of fact which may be adequately adjudicated upon only by the trial court and while doing so even the submissions made on points of law can also be more appropriately gone into by the trial court in this case.

The quashing of the charge sheet and the entire proceedings can also be done only if it does not disclose any offence or if there is any legal bar which prohibits the proceedings on its basis. The Apex Court decisions in the case of **R.P. Kapur Vs. State of Punjab AIR 1960 SC 866, State of Haryana Vs. Bhajan Lal 1992 SCC(Cr.) 426, State of Bihar Vs. P.P. Sharma, 1992 SCC (Cri.) 192 and also in Zandu Pharmaceutical Works Ltd. Vs. Mohd. Saraful Haq and another, (Para-10) 2005 SCC (Cri.) 283** make the position of law in this regard clear.

In the absence of any of the grounds recognized by the Apex

Court which might justify the quashing of charge sheet or the impugned proceedings, the prayer for quashing the same is refused as I do not see any abuse of the courts process either. The court below has been vested with sufficient powers to discharge the accused even before the stage to frame the charges comes, if for reasons to be recorded it considers the charge to be groundless.

As requested, the permission to appear through counsel before the concerned lower court **within a period of 3 weeks from today** and move an application claiming discharge on behalf of whom this appeal has been moved, is granted. The concerned court shall after hearing the counsel decide the application on merits in accordance with law within a period which shall not exceed a period of 2 months from today.

With the above observations, this appeal stands **disposed of.**

(**Shamim Ahmed, J.**)

Order Date :- 15.12.2023
A.Nigam

Digitally signed by :-
ANUJ NIGAM
High Court of Judicature at Allahabad,
Lucknow Bench