

Court No. - 12

Case :- APPLICATION U/S 482 No. - 12323 of 2023

Applicant :- Aurangjeb

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

Counsel for Applicant :- Gyanendra 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 charge-sheet dated 28.09.2011 with all consequential proceedings of criminal case no. 3260 of 2011 (***State of U.P. vs. Kismatul Nisha & Anr.***) pending in the Court of learned Chief Judicial Magistrate, District- Pratapgarh arising out of the F.I.R. No. 194/2011 under Section 419, 420, 467, 468, 471 & 120-B I.P.C., Police Station- Kandhai, District- Pratapgarh.
3. Learned counsel for the applicant submits that F.I.R. in question was lodged, on which, investigation was conducted and Investigating Officer submitted charge-sheet against applicant and her mother in the most mechanical manner. It is further submitted that cognizance was taken by learned trial court and non bailable warrant was issued. It is further submitted that the petition/application was filed by applicant U/s 482 Cr.P.C. No. 7295 of 2016 before this Court against the order of Magistrate U/s 82 Cr.P.C. which was dismissed.
4. Relying on the decisions of Hon'ble Apex Court in the cases of ***State of Haryana and others Vs. Bhajan Lal and others*** reported in ***1992 SCC (Cri.) 426***, ***C.B.I vs. M. Sivamani*** reported in ***2017 SCC OnLine SC 845***, ***Daulat Ram vs. State of Punjab*** reported in ***AIR 1962 SC 1206***, ***Govind Mehta vs. the State of Bihar*** reported in ***AIR 1971 SC 1708***, ***C. Muniappan and others vs. State of Tamil Nadu*** reported in ***(2010) 9 SCC 567***, ***Babita Lila and another vs. Union of India*** reported in ***(2016) 9 SCC 647***, learned counsel for the applicant submits that in case, after consideration of entire evidences collected by Investigating Officer, no offense is made out then proceeding may be quashed. It is, thus, submitted that indulgence of this Court is required.

5. Learned A.G.A. opposes the prayer of applicant and submits that charge-sheet has already been submitted by Investigating Officer on the ground that false caste certificate was obtained by mother of applicant. He further submits that mother of applicant is not cooperating in the trial, she is continuously absconding and she filed repeated petitions before this Court and the trial of the applicant was separated by learned trial court vide order dated 13.01.2023. He does not dispute this fact that discharge application of applicant is pending. He further submits that earlier the petition for quashing of the F.I.R. was filed but the same was decided with the observation that no coercive steps be taken against the applicant till filing of police report; as discharge application is pending, the application U/s 482 Cr.P.C. is not maintainable.

6. Considering the submissions of learned counsel for the applicant, learned A.G.A. and going through the contents of application as well as other relevant documents; it is undisputed fact that earlier the order dated 28.07.2016 passed by the trial court was challenged before this Court in application U/s 482 Cr.P.C. No. 7295 of 2016, the said petition/application was dismissed on merit vide order dated 19.11.2016. It is also undisputed fact that one of the co-accused- mother of applicant is absconding from the first date of filing of charge-sheet and she has filed three petitions before this Court. Thus, on the request of applicant, his trial has already been separated. The aforesaid discharge application is pending, therefore, the application U/s 482 Cr.P.C. is not maintainable.

7. With the above observations, the present application U/s 482 Cr.P.C. is misconceived and accordingly, stands **dismissed**.

Order Date :- 18.12.2023

Arpan