

Court No. - 12

Case :- APPLICATION U/S 482 No. - 12496 of 2023

Applicant :- Yaduveer Singh And Another

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

Counsel for Applicant :- Bhagwati Prasad Nigam, Anurag Shukla

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 impugned order dated 10.10.2023 passed by Additional Sessions Judge-I, Hardoi in S.T. No.348/2021 arisen out of Case Crime No.93/2017 under Sections 395 and 412 I.P.C., P.S.- Sandila, District- Hardoi

3. Learned counsel for the applicants submitted that the applicants' counsel could not attend the court due to some personal reason on the date when the case in question was fixed before the trial court, as a result, exemption application of applicants could not be placed before the trial court, as prior to the said date, either applicants or their counsel were appearing before the trial court and the applicants were cooperating in the trial proceedings but only on one date, neither the applicants nor their counsel appeared before the trial court, as a result, non-bailable warrant was issued. He further submitted that it was obligatory on the part of the trial court to issue bailable warrant but non-bailable warrant was issued. He further submitted that the applicants are ready to cooperate in the proceedings of trial and their mistake was bona fide, therefore, impugned proceedings may be quashed.

4. Learned A.G.A. opposed the prayer of applicants and submitted that there is no illegality in the order passed by the trial court as the applicants were deliberately not cooperating in the trial proceedings as the case is pending since 2019 and the offence is related to the year of 2017, therefore, application 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 only on one date, neither applicants nor their counsel could appear before the trial court, as in place of issuing bailable warrant, non-bailable warrant was issued by the trial court, as due to mistake of counsel,

applicants should not suffer, therefore, this Court is of the view that the impugned order is liable to be set aside

6. Accordingly, the application is **allowed** and the impugned order dated 10.10.2023 passed by Additional Sessions Judge-I, Hardoi in S.T. No.348/2021 arisen out of Case Crime No.93/2017 under Sections 395 and 412 I.P.C., P.S.- Sandila, District- Hardoi is hereby **set aside** with the cost of Rs.5000/- and the same shall be remitted to the witnesses who attended the proceedings of the trial court on the date fixed.

7. Applicants are also directed to cooperating in the proceedings of trial of the case in question.

Order Date :- 21.12.2023

V. Sinha