

Court No. - 11

Case :- APPLICATION U/S 482 No. - 12571 of 2023

Applicant :- Avdhesh Mishra @ Avdhesh Kumar Mishra

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

Counsel for Applicant :- Pankaj Kumar, Krishan Bhushan Tripathi

Counsel for Opposite Party :- G.A.

Hon'ble Saurabh Lavania, J.

Heard.

The present application has been filed with following prayer:

"For the facts and circumstances as stated in the accompanying affidavit, it is most respectfully prayed that this Hon'ble Court may graciously be pleased to quashed the impugned order dated 27.07.2022, passed by Learned Judicial Magistrate, IInd, Sitapur, in Complaint Case No. 14355/2022, "Ramakant Vs. Chhotu and others" by which the Learned Judicial Magistrate, IInd, Sitapur has allowed the Protest Application moved by the opposite party no. 2, which was registered as Misc. Case No. 40/2020, "Ramakant Vs. Chhotu and others", against the Final Report No. 23/2020, dated 30.05.2020, arising in Case Crime No. 183/2020, under Sections- 376, 313, 506 I.P.C., relating to Police Station- Manpur, District- Sitapur as well as impugned summoning order dated 28.03.2023 passed by Learned Additional Civil Judge (J.D.), Court No. 2/ Judicial Magistrate, in Complaint Case No. 14355/2023, against the Final Report No. 23/2020, dated 30.05.2020, arising in Case Crime No. 183/2020, under Sections-376, 313, 506 I.P.C., relating to Police Station- Manpur, District- Sitapur, in which the learned court below summoned the petitioner/applicant, under section 366 I.P.C., in the interest of justice.

It is further prayed that this Hon'ble Court may kindly be pleased to stay the operation and implementation of the impugned order dated 28.03.2023 passed by Learned Additional Civil Judge (J.D.), Court No. 2/ Judicial Magistrate, in Complaint Case No. 14355/2023, "Ramakant Vs Chhotu and others", against the Final Report No. 23/2020, dated 30.05.2020, arising in Case Crime No. 183/2020, under Sections-376, 313, 506 I.P.C., relating to Police Station- Manpur, District- Sitapur, during the pendency of this petition, in the interest of justice.

It is further prayed that this Hon'ble Court may kindly be pleased to stay the further proceeding of Complaint Case No. 14355/2023, "Ramakant Vs Chhotu and others", against the Final Report No. 23/2020, dated 30.05.2020, arising in Case Crime No. 183/2020, under Sections-376, 313, 506 I.P.C., relating to Police Station- Manpur, District- Sitapur, during the pendency of this petition."

After arguing at some length, learned counsel for the applicant says that he does not want to press the present application and

the same may be disposed of with liberty to petitioner to prefer an application for bail as also application for discharge before the authority/court concerned.

The aforesaid prayer has not been opposed.

Accordingly, the present application under Section 482 CrPC is disposed of with liberty to prefer an application for bail and if the application is preferred, the same shall be decided after taking note of law laid down by Hon'ble Supreme Court in order dated 7.10.2021 passed in Petition for **Special Leave to Appeal (Cri) No.5191 of 2021 Satender Kumar Antil versus Central Bureau of Investigation and another.**

With the aforesaid observations, the present petition is **disposed** of.

Order Date :- 21.12.2023

Raj