

Court No. - 12

Case :- APPLICATION U/S 482 No. - 12552 of 2023

Applicant :- Vijay Kumar Singh

Opposite Party :- State Of U.P. Thru. Prin. Secy. Home Civil Sectr. Lko.
And 2 Others

Counsel for Applicant :- Vikas Yadav, Shivam Srivastava

Counsel for Opposite Party :- G.A.

Hon'ble Rajeev Singh, J.

1. Heard learned counsel for the parties.
2. The present application under Section 482 Cr.P.C. is filed with the prayer to quash the impugned order dated 17.11.2023 passed by the learned Session Judge, Balarampur passed in Criminal revision No. 53 of 2023 (Vijay Kumar Singh versus State of U.P.), as well as the impugned order dated 22.06.2023 passed by Chief Judicial Magistrate Utraula, Balarampur in criminal case no. 46/2023.
3. Learned counsel for the applicant has submitted that as the prosecution in question was initiated on the basis of allegation that without obtaining permission, some trees were removed and after cutting these trees in pieces, same were being transported, as the goods were taken into custody and prosecution in question was initiated for the offence under Section 4/10 of U.P. Protection of Trees Act, 1976, the Rule 3/28 of U.P. Transit of Timber and Other Forest Produces Rules, 1978.
4. Learned counsel for the applicant has submitted that as all the alleged offences are compoundable, therefore, application was moved before the court below on 3.7.2023 with a request that Trailer as well as goods may be released after compounding and he is ready to pay the fine but the learned court below rejected the application considering the prayer of release of goods and prayer for compounding is ignored, thereafter, revision was filed, the revision was also rejected in the most mechanical manner without considering the provisions of Section 15 of U.P. Protection of Trees Act, 1976 as well as Rule 28 of U.P. Transit of

Timber and Other Forest Produce Rules, 1978, therefore, impugned orders are liable to be set aside.

4. Learned A.G.A. opposed the prayer of the applicant and submitted that there is no illegality in the order of the court below but he does not dispute this fact that all the offence are compoundable.

5. Considering the submissions of learned counsel for the parties, going through the record of the application as well as other relevant documents, as the alleged offences are compoundable, as application was filed by the applicant before the learned court below for compounding as well as release of the goods but only request of release of goods was considered, therefore, this Court is of the view that order passed by the learned Magistrate without considering the prayer of compounding, accordingly, both the orders are liable to be set aside.

6. In view of the above, the present application under Section 482 Cr.P.C. is **allowed** by setting aside the impugned orders and matter is remanded to the learned Magistrate with a direction to pass a fresh order considering the provisions of Section 15 of U.P. Protection of Trees Act, 1976 as well as Rule 28 of U.P. Transit of Timber and Other Forest Produces Rules, 1978, within a period of two weeks from the date of production of certified copy of this order.

Order Date :- 21.12.2023

Gaurav/-