

Court No. - 16

Case :- CRIMINAL MISC. WRIT PETITION No. - 5093 of 2024

Petitioner :- Pradeep Kumar Verma

Respondent :- State Of U.P. Thru. Prin. Secy. Home Lko. And Another

Counsel for Petitioner :- Niyaj Ahmad

Counsel for Respondent :- G.A.

Hon'ble Shamim Ahmed,J.

Heard Sri Niyaj Ahmad, learned counsel for the petitioner and Sri Hari Shanker Bajpai, learned A.G.A.-I for the State.

The instant writ petition has been filed seeking following main prayer:-

"a. issue a writ, order or direction in the nature of certiorari thereby quashing the impugned order dated 25.04.2024 passed by learned Sessions Judge, Ambedkar Nagar in Criminal Revision No.113 of 2023; Pradeep Kumar Verma Vs. State of U.P. and another, and impugned order dated 21.02.2023 passed by the learned Civil Judge (Junior Division), Tanda/Judicial Magistrate, Ambedkar Nagar, in Criminal Case No.92 of 2020; State Vs. Pradeep Kumar Verma and others, arising out of Case Crime No.219 of 2019, under Sections 498-A, 504, 506, 406 I.P.C., Police Station Malipur, District Ambedkar Nagar, as contained in Annexure Nos.1 and 2 respectively to this writ petition."

Learned counsel for the petitioner submits that the impugned order passed by the learned trial court dated 21.02.2023 by which the application filed by the opposite party no.2 under Section 311 Cr.P.C. was allowed and father and brother of the opposite party no.2 were called for witnesses in the case. He further submits that the order passed is totally against the evidence on record.

He further submits that aggrieved by the aforesaid order dated 21.02.2023, the petitioner preferred a Criminal Revision before the learned court of Additional Sessions Judge, Ambedkar Nagar bearing Criminal Revision No.113 of 2023, which was dismissed vide order dated 25.04.2024.

Thus, he submits that both the orders have been passed without considering the material evidence on record even though in the first information report there is no any whisper of the father and brother. Therefore, he submits that the impugned orders be quashed and the petitioner be allowed.

On the other hand, learned A.G.A.-I for the State opposes the arguments as advanced by learned counsel for the petitioner and submits that no notice is required to the opposite party no.2 as the impugned orders dated 21.02.2023 and 25.04.2024 have been rightly passed by the learned trial court with valid reasons. There is no illegality or infirmity in the impugned orders by which the father and brother of the opposite party no.2 were called as witness in the case. Thus, he submits that the present petition is nothing but an abuse of process of law and is filed with wrong grounds only with intention to delay the trial of the case. He further submits that the present petition lacks merit and the same is liable to be dismissed as no prejudice is being caused to the petitioner while the father and brother of the opposite party no.2 are called for witness vide order dated 21.02.2023.

After considering the arguments as advanced by learned counsel for the respective parties as well as after perusal of records, this Court is also of the view that the impugned order dated 21.02.2023 by which the father and the brother of the opposite party no.2 were called as witnesses in the case is rightly passed after considering the genuineness of the case as they are also main witnesses of the incident as alleged in the first information report lodged against the petitioner and his family members. This Court further finds that the learned Revisional Court has also rightly dismissed the revision filed by the petitioner against the order dated 21.02.2023. Thus, this Court finds no justification to quash the impugned orders as the same have been challenged only with intention to delay the proceedings of the trial and even no prejudice is going to be cause to the petitioner while father and brother of the opposite party no.2 were summoned as witness of the case. Thus, the present petition lacks merit and is liable to be dismissed, which is hereby accordingly **dismissed**.

Order Date :- 29.7.2024

Saurabh