

Court No. - 13

Case :- APPLICATION U/S 482 No. - 11451 of 2024

Applicant :- Santosh Kumar

Opposite Party :- State Of U.P. Thru. Prin. Secy. Home Deptt. Lko. And 6 Others

Counsel for Applicant :- Anubhav Srivastava

Counsel for Opposite Party :- G.A.

Hon'ble Rajeev Singh,J.

1. Heard.

2. The instant application has been filed for quashing the impugned order dated 12.10.2022 passed by the learned Chief Judicial Magistrate, Bahraich in Criminal Case No. 8721 of 2018 (*State vs. Banvari & Others*) arising out of Case crime/FIR No. 2541 of 2017 under Sections 419 and 420 of the Indian Penal Code (IPC) Police Station- Nanpara, District- Bahraich and subsequent order dated 12.10.2023 in criminal revision no. 177 of 2022 passed by learned Additional Session Judge Bahraich; for directing the Court concerned to add the sections 467,468 & 471 in the Criminal Case No. 8721 of 2018.

3. Learned counsel for the applicant submits that the F.I.R. in question was lodged for the offense under Sections 419 and 420 I.P.C. Thereafter, an application u/s 216 Cr.P.C. was filed for alteration of the charge, but the same was rejected by learned trial Court and a revision was also filed, the same was also rejected, therefore, indulgence of this Court is required.

4. Learned A.G.A. vehemently opposes the prayer of applicant and submits that it is well settled that no application u/s 216 Cr.P.C. can be filed by either of the parties. Relying on the decision of Hon'ble Apex Court passed in the case of ***P. Kartikalakshmi Vs. Sri Ganesh and Anr.*** reported in ***(2017) 3 SCC 347***, he further submits that the present application is liable to be dismissed.

5. Considering the submissions of learned counsel for the applicant, learned A.G.A. and going through the contents of application, judgement relied by learned A.G.A. as well as other relevant documents, it is well settled that application u/s 216 Cr.P.C. filed by either of the parties is not maintainable.

6. In view of above, this application is misconceived and the same stands ***dismissed***.

Order Date :- 18.12.2024

Arpan