

Court No. - 74

Case :- APPLICATION U/S 482 No. - 3605 of 2025

Applicant :- Brahmdutt Yadav

Opposite Party :- State Of Uttar Pradesh & Another

Counsel for Applicant :- Man Mohan Mishra

Counsel for Opposite Party :- G.A.

Hon'ble Saurabh Srivastava,J.

1. Heard Sri Man Mohan Mishra, learned counsel for the applicant through video conferencing and learned A.G.A. for the State.

2. The instant application under section 482 Cr.P.C. has been preferred to quash the chargesheet no. 238/2022 dated 28.12.2022 as well as cognizance order dated 19.04.2023 including the entire criminal proceeding of Criminal Case No. 8194 of 2023 (State vs. Ashram Yadav and others) arising out of Case Crime No. 280 of 2022, under sections 3 and 5 of Prevention of Damage to Public Property Act, 1984, P.S. Aurai, District Bhadohi, pending in the Court of learned Additional Chief Judicial Magistrate, Bhadohi as well as to stay the further proceedings of abovementioned case.

3. Brief facts of the present case are that a first information report dated 16.12.2022 bearing Case Crime No. 280 of 2022 was lodged by Lekhpal/opposite party no.2 in pursuance of Section 3/5 of Prevention of Damage to Public Property Act, 1984 against applicant alleging that Arazi No. 0434 having Rakba 0.030 hectare is registered as a pathway, which was surveyed and it was found that nearby farmers have encroached upon the pathway due to which public property has been damaged. The applicant had, thus, caused damage and loss to the public property which is the land vested in Gram Sabha. After lodging of the FIR, the concerned Investigating Officer started inquiry and after conclusion of the same, preferred charge-sheet on dated 28.12.2022 against applicant whereupon learned court concerned has taken cognizance of offence vide order dated 19.04.2023 which impugned the present petition.

4. Learned counsel for applicant has challenged the chargesheet as well as cognizance/summoning order on several other ground inter-alia precisely on the ground that lodging of the first information report taking aid of provisions of the P.D.P.P. Act,

1984 is nothing but an abuse of process of the law, inasmuch as, the said provisions cannot be invoked to lodge a criminal case on the allegations of damage or loss caused to the Gram Sabha land. The Magistrate has acted illegally and without application of judicial mind in taking cognizance on the charge sheet submitted under Section 3/5 of the P.D.P.P. Act, 1984.

5. In any case, the question as to whether applicant had illegally encroached upon the land vested in Gram Sabha, recorded as Chakroad, can only be adjudicated by the Revenue Authorities. The proper proceeding for eviction of the unauthorized occupant can be undertaken under Section 67 of the Revenue Code, 2006. The short-cut procedure adopted by the Lekhpal of the village concerned is nothing but with a view to harass the applicant.

6. Per contra, learned AGA vehemently opposed the prayer sought through the instant petition but could not dispute the aforesaid arguments raised by learned counsel for applicant.

7. While dealing with similar issue, co-ordinate Bench of this Court vide order 6.8.2020 passed in Application u/s 482 no. 9964 of 2020 (**Munshi Lal and Another vs. State of U.P. and another**), quashed the entire proceeding u/s 2/3 of Prevention of Damage to Public Property Act, 1984 and held that as far as criminal proceeding for illegal encroachment, damage or trespass over the land belonging to Gram Sabha is concerned, the same can be undertaken but it would be subject to the adjudication of rights of the parties over the land in dispute as the said determination can be done only by the revenue court. As far as the P.D.P.P. Act, 1984 is concerned, the same has been enacted with the specific purpose. the statement of objects and reasons of the said Act shows that it was enacted with a view to curb acts of vandalism and damage to public property including destruction and damage caused during riots and public commotion.

8. From perusal of the records, it transpires that present case is squarely covered with the judgment of co-ordinate Bench of this Court passed in **Munshi Lal (supra)** and as such the criminal proceedings initiated against the applicant pursuant to Section of Prevention of Damage to Public Property Act, 1984, cannot but be said to be an abuse of the process of law or the Court. The cognizance/summoning order dated 19.04.2023 has been passed in complete ignorance of law. The continuation of criminal proceedings, in the considered opinion of the Court, being an abuse of process of the Court, ends of the justice requires that the said proceedings be quashed.

9. Invoking inherent powers under Section 482 Cr.P.C. of the High Court, entire proceedings of the Criminal Case No. 8194 of 2023 (State vs. Ashram Yadav and others) arising out of Case Crime No. 280 of 2022, under sections 3/5 of Prevention of Damage to Public Property Act, 1984, P.S. Aurai, District Bhadohi is hereby **quashed** only in respect of applicant namely Brahmdutt Yadav.

10. The instant application stands **allowed**.

Order Date :- 15.4.2025

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