

Court No. - 27

Case :- APPLICATION U/S 482 No. - 4716 of 2024

Applicant :- Puneet Mishra Alias Puneet Kumar Mishra And Another

Opposite Party :- State Of U.P. Thru. Addl. Chief Secy. Home Lko. And Another

Counsel for Applicant :- Rajat Pratap Singh, Prashant Singh Chauhan

Counsel for Opposite Party :- G.A.

Hon'ble Shamim Ahmed, J.

Heard Sri Rajat Pratap Singh, learned counsel for the applicants as well as the learned Government Advocate Dr. V.K. Singh and Addl. Advocate General Sri Vinod Kumar Shahi and perused the records.

The applicants herein have filed the instant application under Section 482, Cr.P.C. with the prayer to quash the impugned Charge Sheet No.479/2023, dated 09.10.2023, in Case Crime No.499/2023, Under Sections-384/352/504/505 IPC, 3(2)(Va) and 3(1) (S) SC/ST Act, Police Station-Beniganj, District-Hardoi "State versus Puneer Mishra and Others" as well as cognizance order dated 16.04.2024 passed in Session Case No.432/2024, arising out of the said Case Crime Number by the learned Court of "Special Judge S.C/ S.T Act. (P.A) Act Hardoi, and the entire sessions case.

Learned counsel for the applicants submits that the applicant No. 1 is Journalist of Swatantra Bharat and applicant No. 2 is distributor of Newspaper and Handicap. He further submits that the applicants are innocent and they have been implicated in a false and fabricated case. The alleged F.I.R. against the applicants has been lodged with the delay of 15-days. The police had submitted the charge sheet without proper investigation and without inquiring the real facts of the case. The applicants have falsely implicated because they have showed the news in the newspaper the cutting of the prohibited green tree. It is further stated by the learned counsel that mere perusal of the first Information report and statements of the witness shows that no case Under Sections-384/352/504/505 IPC and 3 (2) 5a & 3(1) (S) SC/ST Act, Police Station-Beniganj, District-Hardoi is made out against the applicants. The applicants committed any offence are made out and the Police have acted in a routine manner and the learned Magistrate has also not applied his judicial mind while passing the cognizance and summoning order.

Learned Government Advocate Dr. V.K. Singh and Addl.

Advocate General Sri Vinod Kumar Shahi submit that from the perusal of the chargesheet and cognizance order, *prima facie*, cognizable offence is made out. Learned counsel for the applicant failed to demonstrate anything, which goes in favour of the applicants. Provisions of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 and the I.P.C. are also attracted in the facts of the present case. Even the valid licence of Journalist issued to the applicant by the State Information Department has not been annexed with the petition, so it appears that the applicants are involved in such activities to blackmail the common man by taking photograph and by printing the material in the newspapers against the innocent persons.

Learned Government Advocate Dr. V.K. Singh and Addl. Advocate General Sri Vinod Kumar Shahi also submit that there is a Gang operating in the entire State of Uttar Pradesh, who in the name of Journalist is involved in anti-social activities like blackmailing common man for getting financial benefits as well as other benefits in the garb of printing material against them in the news papers and defaming their image in the society and this is one of such type of cases which has been filed before this court for quashing of the chargesheet and summoning order, thus, no relief be granted to the applicants by this court.

After considering the arguments as advanced by the learned counsel for the parties and after perusal of the record this court is also of the view that the impugned summoning order as well as the chargesheet and the cognizance order filed against the applicants are perfectly just and legal. *Prima facie* cognizable offence is made out against the applicants under the Sections of I.P.C. as well as under the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989.

The matter is very serious and the State Machinery should take cognizance of the same and cancel the licence of such Journalists, if they are found operating in such type of anti-social activities in the garb of their licence. There are machinery with the State Government which is capable to stop such type of activities which is being operated in case, if the case is found to be true. In the present case, the applicant, who claims to be the Journalist in the news-paper, namely, Swatantra Bharat is not able to show any document that he is recognized by the said newspaper and even after query made by this court the applicants and their counsel fails to show any such paper.

Thus, no interference is required by this court exercising power

under Section 482, Cr.P.C. to quash the aforesaid proceedings in view of the judgments rendered by Hon'ble the Supreme Court in the cases of **(i) R.P. Kapoor Vs. State of Punjab, AIR 1960 S.C. 866, (ii) State of Haryana Vs. Bhajanlal, 1992 SCC (Cri.)426, (iii) State of Bihar Vs. P.P. Sharma, 1992 SCC (Cri.)192 and (iv) Zandu Pharmaceutical Works Ltd. Vs. Mohd. Saraful Haq and another, (Para-10) 2005 SCC (Cri.)283.**

The learned counsel also fails to demonstrate the three ingredients by which the court can exercise the power under Section 482, Cr.P.C. to quash the further proceeding of the case if *prima facie* the case is without jurisdiction or it is filed with abuse of the process of law. In the present case, the two is absent. The Supreme Court in the case of **S.W. Palankattkar & others Vs. State of Bihar, 2002 (44) ACC 168**, has laid down the guidelines for quashing of the guidelines for quashing of the chargesheet and the entire proceeding, exercising power under Section 482, Cr.P.C., which is absence in the present case, thus, this court do not find any justification to entertain the present case and the present application lacks merits and is hereby **dismissed**.

(Shamim Ahmed, J.)

Order Date :- 22.5.2024

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