

Court No. - 77

Case :- APPLICATION U/S 482 No. - 15919 of 2024

Applicant :- Rajeev Kumar Bhardwaj And Another

Opposite Party :- State of U.P. and Another

Counsel for Applicant :- Prabhash Pandey, Pradeep Kumar Sharma

Counsel for Opposite Party :- G.A.

Hon'ble Rajeev Misra, J.

Heard Mr. Pradeep Kumar Sharma, the learned counsel for applicants and the learned A.G.A. for State.

Perused the record.

Charge sheeted accused Rajeev Kumar Bhardwaj and Rushil have approached this Court by means of present application under Section 482 Cr. P. C. with the following prayer:-

"It is, therefore, most respectfully prayed that this Hon'ble Court may kindly be pleased to quash the entire proceedings as well as impugned charge-sheet dated 16.08.2023 and cognizance order dated 05.10.2023 in Criminal Case No. 10716 of 2023, (State Vs. Rajeev Bhardwaj & another) arising out of case crime no. 0126 of 2023, under sections 420, 406, 323, 504, 506, 120 B of I.P.C., Police Station Loni, Rural (Commissionerate Ghaziabad), pending in the court of learned Additional Chief Judicial Magistrate-Ist, Ghaziabad.

It is further prayed that this Hon'ble Court may kindly be pleased to stay the further proceedings of Criminal Case no. 10716 of 2023 (State Vs. Rajeev Bhardwaj & another), arising out of case crime no. 0126 of 2023, under sections 420, 406, 323, 504, 506, 120 B of I.P.C., Police Station Loni, Rural (Commissionerate Ghaziabad) pending in the court of learned Additional Chief Judicial Magistrate-Ist, Ghaziabad during the pendency of the instant Criminal Misc. Application before this Hon'ble Court, otherwise the applicant shall suffer irreparable loss and injury. And/or may pass such other and further order, which this Hon'ble Court may deemed necessary in the interest of justice."

Learned counsel for applicants contends that the occurrence giving rise to the present criminal proceedings is alleged to have occurred on 2.2.2018, whereas the F.I.R. in respect of the same came to be registered on 2.2.2023, on the basis of an order passed by the Judicial Magistrate, under Section 156 (3) Cr. P. C. However, the application under Section 156 (3) Cr. P. C. was itself filed before court concerned on 21.1.2023. On the above premise, the learned

counsel for applicants contends that there is delay in lodging the F.I.R. However, no explanation has come forward from the first informant opposite party 2 for delay/laches in lodging the F.I.R. Reference was then made to the statement of first informant opposite party 2 recorded under Section 161 Cr. P. C., which is on record at page 74 of the paper book. With reference to above, the learned counsel for applicants submits that since no explanation has come forward from the first informant opposite party 2 regarding the delay/laches in filing the F.I.R., as such, the present proceedings are liable to be quashed. To lend legal support to his submissions, he has referred to the judgements of the Supreme Court in **P. Ramchandra Rao Vs. State of Karnataka, (2002) 4 SCC 578, P. Rajagopal Vs. State of Tamilnadu, AIR 2019 SC 2866 and Hasmukhlal D. Vora and another Vs. State of Tamil Nadu (2022) 15 SCC 164.**

Per contra, the learned A.G.A. has opposed this application.

Having heard the learned counsel for applicants, the learned A.G.A. for State and upon perusal of record, matter requires consideration.

Notice on behalf of opposite party No. 1 has been accepted by the learned A.G.A.

Issue notice to opposite party No. 2.

All the opposite parties may file their respective counter affidavits on or before the date fixed in the notice.

List for admission on the date fixed in the notice.

Considering the facts and circumstances of the case and also the submissions urged by the learned counsel for applicants as noted herein above, as an interim measure, it is, hereby, provided that until further orders of this Court, further proceedings of Criminal Case No. 10716 of 2023, (State Vs. Rajeev Bhardwaj & another) arising out of case crime no. 0126 of 2023, under sections 420, 406, 323, 504, 506, 120 B of I.P.C., Police Station Loni, Rural (Commissionerate Ghaziabad), pending in the court of learned Additional Chief Judicial Magistrate-Ist, Ghaziabad, shall remain stayed.

Order Date :- 27.8.2024

HSM