

Court No. - 76

Case :- APPLICATION U/S 482 No. - 25205 of 2024

Applicant :- Yogesh

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

Counsel for Applicant :- Aishwarya Pratap Singh, Shreyansh Agrawal

Counsel for Opposite Party :- G.A.

Hon'ble Dinesh Pathak, J.

1. Learned AGA has filed a compliance affidavit to the effect that notice has personally been served, which was received by Opposite Party No. 2 himself.
2. Heard learned counsel for the applicant, learned AGA and perused the record on board.
3. The applicant has invoked the inherent jurisdiction of this Court under Section 482 Cr.P.C. for quashing the entire proceeding including Charge sheet No. 506 of 2020 dated 10.12.2020 and summoning order dated 09.02.2021 in the Session Case No. 732 of 2021 (State vs. Yogesh), under Sections 323, 325, 504, 506, 354 of I.P.C. & Section 3(2) (va) of S.C./S.T. Act, arising out of Case Crime No. 447 of 2020, Police Station-Tappal, District- Aligarh, pending before Special Judge S.C./S.T. Act, Aligarh.
4. As per FIR version, the present applicant has illegally encroached upon the partial area of plot belonging to the complainant. When the complainant has resisted, he has been threatened and abused.
5. It has been submitted that false and malicious prosecution has been instituted against the present applicant showing illegal encroachment allegedly made by him over the property measuring area 500 square yard allegedly belonging to the complainant. With respect to said incident, an FIR was lodged accusing two persons namely the present applicant and his son Mayank, however, Mayank has not been arraigned in the charge sheet, which has been filed only against the present applicant. It is next submitted that with respect to the property in question, the complainant has already filed a suit being OS No. 1058 of 2022 for permanent prohibitory injunction. Said suit was dismissed, vide order dated 21.2.2024 passed by Civil Judge, Junior Division, Aligarh. At later stage, with malicious intention, the complainant has lodged another FIR being FIR No. 0320 dated 12.8.2022 showing incident dated 11.8.2022

with respect to the same property in question i.e. plot No. 817 measuring area 500 square yards. The petitioner has assailed the charge-sheet and the FIR No. 0320 before this Court by way of moving an application under Section 482 CrPC No. 9693 of 2024 (Yogesh and 5 Others Vs. State of UP and another). The co-ordinate Bench of this Court, vide order dated 19.7.2024, has granted interim order in favour of all the accused of the aforesaid FIR (including present applicant). It is next submitted that the first informant has no concern with the plot No. 817. Said plot in question i.e. plot No. 817 measuring area 500 square yard has been purchased by the applicant through a registered sale deed dated 29.8.2008 and since then he is in possession over there. The name of the present applicant is recorded in the revenue record on the basis of the aforementioned registered sale deed dated 29.8.2008. The complainant, in collusion with Rishipal in whose institution he is working as Class-IV employee, has tried to grab the property of the present applicant by creating undue pressure so that the applicant may leave the said property. It is next submitted that no case under SC/ST Act is made out inasmuch as there is nothing on the record to demonstrate that such incident took place in the 'public view'.

6. The matter requires consideration.

7. Opposite Party No. 1, State is represented through learned AGA. None appears on behalf of Opposite Party No. 2 despite the service of notice.

8. List this matter on 27.11.2024 along with the record of Criminal Misc. Application under section 482 No. 9693 of 2024, Yogesh and 5 others vs. State of U.P. and another.

9. In the meantime, parties shall exchange their respective affidavits, if any.

10. Until further orders of this Court, further proceedings, against the applicant in the aforementioned case, shall remain stayed.

Order Date:- 16.10.2024

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