

Court No. - 75

Case :- APPLICATION U/S 482 No. - 27308 of 2024

Applicant :- Brijesh And 2 Others

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

Counsel for Applicant :- Brijesh Chandra Naik

Counsel for Opposite Party :- G.A.

Hon'ble Mrs. Manju Rani Chauhan,J.

Compliance affidavit regarding service of notice upon opposite party no.2 has been filed by learned AGA in the registry on 28.09.2024. Accordingly, notice upon opposite party no.2 is sufficient.

Mr. B.S. Tripathi, Advocate, has obtained instructions in the matter to appear on behalf of opposite party no.2.

Heard Mr. Brijesh Chandra Naik, learned counsel for the applicants, Mr. B.S. Tripathi, learned counsel for the opposite party no.2 and Mr. Mayank Awasthi, learned A.G.A. for the State and perused the record.

This application under Section 482 Cr.P.C. has been filed to quash the charge sheet no.01 dated 23.06.2021 as well as cognizance order dated 22.10.2021 and summoning order, non bailable warrant dated 16.07.2024 and the proceeding of Session Case No.2159 of 2021, arising out of Case Crime No.0112 of 2021, under Sections 147, 323, 504, 506, 452 IPC, & Section 3(1)(r)(s) of SC/ST Act, Police Station-Barhalganj, District-Gorakhpur, pending in Court of Additional District Judge/SC/ST Act, Gorakhpur.

Learned counsel for the applicants submits that applicant no.1 has already been arrested and applicant nos.2 & 3 as well as opposite

party no.2 belong to the same family and, therefore, belong to the same caste, thus, offence under SC/ST Act is not attracted. He, next submits, no prosecution could lie against the applicants, in such circumstances.

Matter requires consideration.

List after three months before appropriate Court.

In the meantime, learned counsel for the parties may file their counter and rejoinder affidavits.

Till the next date of listing, no coercive action shall be taken against the applicants in the aforesaid case.

The matter shall not be treated as tied up or part heard to this Bench.

Order Date :- 30.9.2024

Rahul.