

Court No. - 10

Case :- APPLICATION U/S 482 No. - 7859 of 2022

Applicant :- Dinesh Pratp Singh

Opposite Party :- State Of U.P. Thru. Prin. Secy. Home, Govt. Lko.

Counsel for Applicant :- Sharad Pathak

Counsel for Opposite Party :- G.A.

Hon'ble Dinesh Kumar Singh,J.

1. Heard Mr. Sharad Pathak, learned counsel for the applicant, as well as Mr. Rao Narendra Singh, learned Additional Government Advocate, representing the respondent - State, and gone through the record.

2. This application under Section 482 Cr.P.C. has been filed, seeking quashing of the proceedings of Criminal Case No.10953 of 2016, pending in the Court of Special Judge (MP/MLA)/Vith Additional Sessions Judge, Raebareli, quashing of the summoning order dated 26.08.2016 passed by learned Chief Judicial Magistrate and quashing of the charge-sheet filed in Case Crime No.0616 of 2013 under Sections 141, 145, 283 and 341 IPC, lodged at Police Station Mill Area, District Raebareli.

3. The learned counsel for the applicant has tendered an affidavit in compliance of the order dated 02.12.2022, placing on record the Application dated 15.02.2019 under Section 321 CrPC filed in the trial Court for withdrawal from prosecution in the said case after the Government had granted permission vide order dated 24.09.2018. ***Let the affidavit be taken on record.***

4. The applicant is a political activist; he is 3rd time Member of Legislative Council and at present he holds the position of Minister of State in the Government of Uttar Pradesh; earlier, he was in Congress Party. It is alleged that party in power at the relevant time (Samajwadi Party) was pressurizing the applicant to quit Congress Party and join Samaswadi Party, however, the applicant, despite pressure being exerted on him from several quarters, did not agree to leave Congress Party and join Samajwadi Party.

5. It is submitted by the learned counsel for the applicant that because of refusal by the applicant, the top boss of the Samajwadi Party, who was holding the post of Chief Minister, got annoyed and several false cases came to be registered against the applicant as a political vendetta since he refused to

leave the Congress Party and join the party in power (Samajwadi Party). As per allegation of the FIR in the present case, the applicant along with 40-50 persons had blocked Raibareli-Sultanpur Road near Dighiha Bazar and they were demanding fair and impartial investigation in an offence in which name of local MLA was also involved but the police was not investigating the offence in a fair and impartial manner and not taking any action against the then local MLA. On this information, the complainant, who was Station Officer, along with police team reached the place where the applicant and 40-50 were staging *Dharana* by blocking the road. The other police personnel have also been called from the police station.

6. It is said that on 16.10.2013 some incident took place with one Mr. Badri Prasad Yadav with respect to which FIR came to be registered vide Crime No.0614 of 2013, under Sections 147, 148, 149, 308, 504 and 506 IPC against the accused persons, but name of Sadar Member Legislative Assembly (hereafter referred to as the "MLA") Mr. Akhilesh Singh (now dead) was not included in the FIR, though there were allegations regarding his involvement. The applicant, being a public figure, wanted fair investigation of the said offence and the people of the area were agitating for the fact that the police was not taking any action against the local MLA. Since the police was not investigating the offence fairly, including the role of Sadar MLA, Late Akhilesh Singh, the applicant, in order to put pressure on the administration for fair investigation, staged the protest.

7. Mr. Sharad Pathak, learned counsel for the applicant, submits that the political activists, even public in general, have right to protest against such action of the Administration and if the crime is not fairly investigated by the police authorities to save powerful person in an offence and for said reason protest is staged, no offence is made out. It is further submitted that charge-sheet itself would not disclose that the applicant or any other person, accompanying him at the protest side, had indulged in any criminal activity. Except for vague allegation that the protest staged by the applicant along with 40-50 persons caused immense inconvenience to the commuters, there is no other allegation. The learned counsel further submits that if in a democracy the people's right to protest, which is guaranteed under Article 19(1) of the Constitution of India, is throttled/muzzled the dissent is compressed/suppressed, it would not be in the interest of healthy democracy. Dissent and opposition to the Government in power are essentials of the democracy in this country. The learned counsel, therefore, submits that looking at the facts & circumstances of the case, particularly, the contents of the FIR, the impugned proceedings

are nothing but a gross abuse of process of the Court and law as the impugned proceedings are result of the political vendetta which are wholly in abuse of process of the Court and law.

8. The second submission of learned counsel for the applicant is that the State Government has granted permission vide order dated 24.09.2018 to withdraw from prosecution in the present case and pursuant to the permission granted by the State Government, an application under Section 321 CrPC had been filed by the Public Prosecutor on 15.02.2019, however, no decision has yet been taken on the said application, and the applicant has to appear, which is nothing but a kind of harassment that the applicant, being State Minister and political activist, has to drop his programme and appear before the learned trial Court, though no case is made out against the applicant. Pursuant to the permission granted by the State Government of Uttar Pradesh vide order dated 24.09.2018 the application for withdrawal from prosecution has been filed. It is, therefore, submitted that looking at the entirety of the facts & circumstances of the case, continuation of the impugned proceedings would result further harassment of the applicant, and it is an abuse of process of the Court and, therefore, the application may be allowed.

9. Mr. Rao Narendra Singh, learned Additional Government Advocate though has opposed the prayer for quashing of the proceedings, but he has not disputed the fact that the State Government itself has granted permission for withdrawal from prosecution and pursuant to that application under Section 321 CrPC to withdraw from prosecution has been filed. The learned Additional Government Advocate, therefore, submits that this Court may pass appropriate order in the facts and circumstances of the case.

10. I have considered the submissions advanced by the learned counsel for the parties.

11. In a democracy based on adult franchise, the political activist and other public spirited persons would have right of protest against the Administration by staging *Dharana* etc. against perceived discrimination/atrocities, inaction, omission or commission of the State Authorities. In the case in hands, in criminal case, regarding assault on a person, who was a political activist, name of the local MLA, Late Akhilesh Singh came, however, the police was not taking any action in the said case and no fair investigation was being carried out. To put pressure on the State Authorities, the applicant, along with his supporters, staged protest on Raebareli-Sultanpur Road. This protest might have caused inconvenience to the commuters, but

the fact remains that no offence was committed by the applicant or other co-accused. This is not even the case of the prosecution that the applicant and his supporters had indulged in any violence or criminal activity.

12. Looking at the triviality of the matter, which has remained pending before the trial Court since 2013, particularly, taking into consideration the permission granted by the State Government to withdraw from prosecution and pursuant to which application under Section 321 CrPC has already been filed, continuation of the impugned proceedings are nothing but a gross abuse of process of the Court and triviality is as such where no prosecution should be allowed. In view thereof, this application is hereby **allowed** and impugned proceedings are **quashed**.

[D.K. SINGH, J.]

Order Date :- 6.12.2022

MVS/-