

**Court No. - 87**

**Case :- APPLICATION U/S 482 No. - 23361 of 2022**

**Applicant :-** Suab And 5 Others

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

**Counsel for Applicant :-** Raju Kumar,Rajeev Sawhney

**Counsel for Opposite Party :-** G.A.

**Hon'ble Sameer Jain,J.**

Heard Sri Rajeev Sawhney, learned counsel for the applicants and Sri Jhamman Ram, learned AGA for the State-respondent.

The instant application u/s 482 Cr.P.C., has been filed by the applicants with a prayer for quashing the charge sheet dated 6.6.2020 arising out of case crime No. 372 of 2019, under Section 147, 148, 332, 336, 353, 188, 427, 109, 120-B, 153A, 295A IPC and 7 CrI. Law Amendment Act, pending in the court of Additional Civil Judge, Senior Division-Ist Bijnor.

Learned counsel for the applicants submitted that applicants have been falsely implicated in the present matter by opposite party not. 2 due to previous enmity with the local police. He next submitted that applicants neither pelted stones nor they caused any injury to anyone including any police personnel. He next submitted that even as per, FIR, applicants were gathered at the place of incident as a protestors against Citizenship Amendment Act (Bill) but in spite of that, FIR of the present case was lodged against the applicants and after investigation, charge sheet has also been submitted against them. He next submitted that only applicant nos. 1 and 2 were named in the FIR and name of other applicants were disclosed during investigation. Learned counsel further submitted that the Division Bench of this Court was pleased to stay the arrest of applicant nos. 1 and 2 during investigation. Learned counsel vehemently submitted that applicant not. 1 is an Engineer and he never indulged in such anti social activities and the protest is the constitutional right of a citizen and if a person involved in a peaceful agitation then he cannot be implicated in any criminal case, therefore, impugned charge sheet as well as entire criminal case pending against the applicants is bad.

Per contra, learned AGA submitted that from the perusal of the FIR, it appears that when police personnel tried to disperse the mob with the announcement that section 144 Cr.P.C. has been invoked in the city then instead of dispersion, they started stone pelting and due to their assault one constable Umesh Kumar sustained injury, therefore, it cannot be said that no offence

against the applicants is made out. He next submitted that other argument of the enmity cannot be appreciated, at this stage, and the same can only be appreciated by the court below during trial.

I have heard learned counsel for both the parties and perused the record of the case.

The FIR of the present case was lodged on 16.12.2019 and according to FIR, huge mob gathered at a public place to raise agitation against Citizenship Amendment Act (Bill) and when police arrived there and informed them that as section 144 Cr.P.C. has already been invoked in the city, therefore, no procession can be commenced then instead of dispersal, mob suddenly started attack on police and due to their stone pelting one police personnel, namely, Umesh Kumar sustained injuries, therefore, in my view as FIR disclosed, prima facie, cognizable offences against the applicants, therefore, charge sheet pending against the applicants cannot be quashed.

However, learned counsel for the applicants, vehemently submitted that applicant nos. 1 and 2 who are named in the FIR have been made accused in the present matter as they were having enmity with Investigating Officer of the case but on that ground proceeding pending against the applicants cannot be quashed, therefore, in view of the matter the instant application u/s 482 Cr.P.C. is devoid of merit and is, accordingly, **dismissed.**

**Order Date :- 29.8.2022**

Ankita