

Court No. - 28

Case :- APPLICATION U/S 482 No. - 1343 of 2024

Applicant :- Syed Waseem Rizvi

Opposite Party :- State Of U.P. Thru. Addl. Chief Secy. Home Lko. And Another

Counsel for Applicant :- Abhinav Singh

Counsel for Opposite Party :- G.A.

Hon'ble Rahul Chaturvedi,J.

Heard Sri Abhinav Singh, learned counsel for the applicant as well as Sri S.P. Tiwari, learned A.G.A. for the State as well as perused the records.

The extra-ordinary power of this Court under section 482 Cr.P.C. has been invoked by the applicant with the prayer to quash the entire proceeding of Criminal Case No.4539 of 2023, State Vs Waseem Rizvi, arising out of case crime no.0040 of 2019, Police Station-Chowk, District-Lucknow pending in the court of learned Additional Chief Judicial Magistrate-III, Room No.27, Lucknow under section 153-A and 504 IPC and to quash the summoning order dated 21.01.2023 passed by the learned Additional Chief Judicial Magistrate-V, Lucknow in case no.4539 of 2023 as well as charge sheet bearing no.01 of 2023 dated 07.01.2023, under section 153-A and 504 IPC arising out of case crime no.0040 of 2019.

In nutshell, the prosecution against the applicant started rolling after filing of a FIR by one Abdul Fahid Farooqui against the present applicant-Syed Waseem Rizvi, the then Chairman, Shia Waqf Board. The allegations made in the FIR is that the informant is the Chairman of Sahaba Action Committee which is involved in the upliftment of social and educational standard of Sunni Sect of Muslim community.

On 19.11.2018, a trailer was shown to the informant titled as "Ram Janmbhoomi" and the said trailer was subsequently played on Youtube channels, a digital platform.

It is alleged that in that trailer, certain imputations and derogatory remarks were made against the adorable personalities of Sunni Sect causing hurt to the informant also.

As per the allegations made in the FIR, the informant is of the view that the screening of the film may lead to communal tension in the city.

The applicant was said to be the writer and producer of that film. Needless to mention here that by that time, proper certification of the film was not done by the Central Board of Film Certification, Mumbai. Therefore, it was urged that

suitable action shall be taken under section 153, 153-A, 504, 505 and the Cinematography Act, 1952.

After holding in-depth probe into the matter, police has submitted the charge sheet/report under section 173(2) Cr.P.C. on 07.01.2023, which is annexed as Annexure-2 to the application. It is further argued by learned counsel for the applicant that the learned Magistrate in a most mechanical fashion, has taken cognizance of the offence under section 153-A and 504 IPC without assigning any good reason for the same.

Thereafter, the informant of the case has parallelly filed Misc. Writ Bench No.465 of 2019, titled as 'Abdul Waheed Farooqui Vs. U.O.I. and others' before Division Bench of this Court and the Court in its lengthy judgment, considering all the aspect of the issue, dismissed the writ petition with the observation that this petition is being filed to gain cheap popularity among masses.

Since, by that time, the applicant had not received proper certification with regard to film but on 14.03.2013, the Central Board of Film Certification has granted 'A/UA' certificate to that film. Learned counsel for the applicant states that despite of the fact that the applicant has received proper certification from the competent Board on one hand and the Government of Uttar Pradesh has sanctioned the prosecution case against the applicant on 31.12.2022 as contemplated under section 196 of the Cr.P.C.

Learned counsel for the applicant has further drawn the attention of the Court to the two judgments of Hon'ble the Apex Court in the case of **Salman Khan Vs. State of Gujrat and others** reported in **2018 SCC Online SC 3758** and **2019 SCC Online SC 2144** in which Hon'ble the Apex Court have categorically opined that as soon as the Central Board of Film Certification provides the producer to entitle to screen his film then under that circumstances, no "lis" remain to be adjudicated by the competent concerned court. Paragraph no.2 of the aforesaid judgment is quoted hereinbelow :-

"Heard Mr.Nizam Pasha, learned counsel for the petitioner. Issue notice, fixing a returnable date within four weeks. The grievance in this writ petition is that though the film, "Loveyatri – a journey of love" has obtained certificate from the Central Board of Film Certification (respondent No.3 herein), yet certain private complaints and FIRs under [Sections 295, 198, 153, 153\(B\) and 120\(B\)](#) of the Indian Penal Code have been registered at various places against the petitioner, who runs the production company, namely, Salman Khan Films, a division of Salman Khan Ventures Private Limited. It is submitted by the learned counsel for the petitioner that once the Certificate has been granted by the Central Board of Film Certification, the producer is entitled to show the film in the theatres, and no criminal law should be set in motion because of such individual perception relating to the name or any song in the movie. Having regard to the said assertion, we think it appropriate to pass a protective order that no coercive action shall be taken against the petitioner relating to the film, namely, "Loveratri". That apart, no further FIR/Criminal Complaint/criminal proceeding shall be entertained by any investigating agency Reason: anywhere if the allegations relate to the said movie or the contents of the movie. Needless to say, we have passed this order as an assertion has been made that the film has got the certification from the competent authority."

After perusing the aforesaid judgment, it seems that no case against the applicant is made out. But the Court is also conscious of the fact that there is scheme provided in the Code of Criminal Procedure and this Court consciously is not inclined to break that scheme.

Thus, it is directed that the applicant shall appear before the court concerned armed with an application under section 88 of the Cr.P.C. which reads thus :-

"When any person for whose appearance or arrest the officer presiding in any Court is empowered to issue a summons or warrant, is present in such Court, such officer may require such person to execute a bond, with or without sureties, for his appearance in such Court, or any other Court to which the case may be transferred for trial."

The concerned court, after taking personal bond, may release the applicant with or without surety and thereafter, the applicant shall move detailed discharge application under the appropriate sections of Cr.P.C. raising all the legal as well as factual points for the determination of the same by the court concerned and it is mandatory and obligatory on the part of the court concerned to decide the same within a period of six weeks from its institution by giving a well reasoned order.

With the aforesaid observations, the present application stands disposed of.

Order Date :- 13.2.2024

Sumit S