

Court No. - 48

Case :- APPLICATION U/S 482 No. - 3487 of 2017

Applicant :- Hriday Narain Chaubey

Opposite Party :- State Of U.P. And Another

Counsel for Applicant :- Shailesh Kumar Tripathi

Counsel for Opposite Party :- G.A.

Hon'ble Karuna Nand Bajpayee,J.

This application u/s 482 Cr.P.C. has been filed seeking the quashing of impugned order dated 27.1.2017 passed by Addl. District Judge/ Special Judge (E.C.Act) Varanasi in Session Trial No.138 of 2013, State vs. Hriday Narain Chaubey and others, u/s 323, 504 I.P.C. P.S. Cholapur, district Varanasi.

Heard applicant's counsel and learned AGA.

Entire record has been perused.

Counsel has not been able to point out any such illegality or impropriety or incorrectness, much less than any abuse of court's process which may persuade this Court to interfere in the impugned order, which reflects judicial application of mind. The facts and circumstances have been gone into a grate detail. In the considered opinion of the court another case in question contains cross version of the incident though there are differences in the versions regarding the manner, place of incident etc. According to the view of the court which version is true or false shall depend upon the actual evidence that may be produced in the court and if a particular case has been committed to the court of Session deeming it to be a case containing cross version than there is nothing unusual about it. In fact, it may be observed at this stage that committal of case under Section 323 of Code of Criminal Procedure cannot be confined only to the cross case. If the court of Magistrate deems that the trial of a particular case ought to take place in the court of Session then he has the power to commit the same for various other reasons also. Two parties may give two different versions of the incident and there may be many differences between their versions. The exact identity of time and the exact identity of place of occurrence are not pre-requisite conditions to consider them as two cases containing cross versions. This may be so or this may not be so. There are many other considerations for the court before determining whether the two versions are cross versions of the same incident or whether they are two different incidents, which took place at two point of time and at two different places. These matters lie within the realm of the courts below and unless there is some element of perversity observed by this Court or unless the finding of the court below is wholly against the record, this Court is slow to interfere in the discretion exercised by the court below. The impugned order appears to contain correct reasonings. This Court does not see any such ground which may vindicate any interference in the same.

It goes without saying that committal of case to court of session is one thing but that does not go to mean that this will aggravate the gravity of offence and should also result in conviction. The acquittal and conviction of the accused depends upon the nature of evidence that may be produced in the trial court. The court must arrive at a just conclusion in the matter

without being prejudiced by the fact that the case has been committed to it and the final adjudication must be based on appreciation of evidence produced before it with circumspection.

This application seeking quashing of the impugned order is meritless and hence is dismissed accordingly.

Order Date :- 30.11.2017

Naresh/Rkb.