

Case :- APPLICATION U/S 482 No. - 11592 of 2020

Applicant :- Smt. Jaya Prada Nahata

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

Counsel for Applicant :- Neeraj Srivastava

Counsel for Opposite Party :- G.A.

Hon'ble Om Prakash-VII,J.

This Application U/S 482 Cr.P.C. has been filed with the prayer to allow this application and quash the entire criminal proceedings of case no.1408 of 2019 (State Vs. Jaya Prada Nahata) in N.C.R. No. 59 of 2019, under Section 171-G IPC, Police Station Swar, district Rampur pending before Additional District & Sessions Judge, Court No. 6, Rampur as well as non-bailable warrant dated 13.02.2020 issued by the aforesaid Court. Further prayer has been made to stay the proceedings of the aforesaid case.

Heard learned counsel for the applicant and learned A.G.A.

Learned counsel for the applicant submits that initially in this matter N.C.R. was lodged but thereafter Investigating Officer concerned submitted charge sheet for the offence under Section 171-G IPC. Referring to the punishment provided for the offence under Section 171-G IPC and the nature of offence disclosed in the Schedule of the Cr.P.C. it is further argued that offence is non cognizable and is squarely covered with the definition of Section 2 (d) Cr.P.C. and cognizance could not be taken directly as State case. Proceedings on the basis of charge sheet could only continue as complaint case. Trial Court did not consider the legal position and is proceeding with the trial as State case.

Learned A.G.A. argued that although offences levelled against the applicant is non cognizable but procedure adopted by the Trial Court cannot be termed to be illegal.

I have considered the rival submissions made by the learned counsel for the parties.

It is not disputed in the present matter that charge sheet was submitted under Section 171-G IPC. Schedule appended with the Cr.P.C. clearly reveals that offence is non cognizable. If such is the position cognizance on the charge sheet as State case could not be taken in the present matter. Trial Court ought to have proceeded with the case as complaint case.

Thus, having heard learned counsel for the parties and having gone through the record and taking into consideration the legal position as on date, cognizance order dated 16.07.2019 and all the consequential orders passed thereafter on the charge sheet are liable to be set aside and application is liable to be allowed.

The application is allowed. Order dated 16.07.2019 as well as non-bailable warrant dated 13.02.2020 and all other consequential orders passed in case no.1408 of 2019 (State Vs. Jaya Prada Nahata) in N.C.R. No. 59 of 2019, under Section 171-G IPC, Police Station Swar, district Rampur pending before the Additional District & Sessions Judge, Court No. 6, Rampur are

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quashed.

Matter is remanded back to the court below to pass afresh order in accordance with law.

Office is directed to send a copy of this order to the court concerned within a week.

The applicant shall file self attested computer generated copy of this order downloaded from the official website of High Court, Allahabad. The concerned court/authority/official shall verify the authenticity of such computerised copy of the order from the official website of High Court, Allahabad and shall make a declaration of such verification in writing.

Order Date :- 26.6.2020

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