

Court No. - 53

Case :- MATTERS UNDER ARTICLE 227 No. - 2724 of 2023

Petitioner :- Virendrapal Singh

Respondent :- State Of U.P. And 12 Others

Counsel for Petitioner :- Shyam Singh Somvanshi, Alok Kumar Mishra, Ankita Singh

Counsel for Respondent :- G.A., Ashvani Tripathi

Hon'ble Syed Aftab Husain Rizvi, J.

Counter affidavit filed by the respondents (except respondent no.9) is taken on record.

Heard learned counsel for the parties and perused the record.

This petition under Article 227 has been filed against the order dated 02.07.2022 passed by Judicial Magistrate, Jalalabad, Shahjahanpur in Complaint Case No.1317 of 2018 (Virendra Pal Singh Vs. Rambeti and others). By the impugned order, the learned Magistrate has dismissed the complaint.

It appears from the perusal of the record that the petitioner moved an application under Section 156(3) Cr.P.C., making various allegations against respondents no.2 to 12. Under the orders of the concerned Magistrate, an F.I.R. Crime No.669 of 2015 under Sections 420, 467, 468 and 471 I.P.C. was lodged. After investigation, the final report was submitted. The petitioner filed a protest petition against it, which was treated as a complaint and petitioner was directed to produce his evidence in support. In compliance of it, the petitioner produced evidence under Sections 200 and 202 Cr.P.C. The learned Magistrate vide order dated 11.11.2020 passed a summoning order against the respondents no. 2 to 12 for offence under Section 420, 468 and 471 I.P.C. Aggrieved with it, the respondents no.2 to 12 filed a Criminal

Revision No.11 of 2021 before the Sessions Court, Shahjahanpur. The Sessions Court, Shahjahanpur vide order dated 25.04.2022 allowed the revision and remanded the matter back to the concerned Magistrate to pass an order in light of the observations made in the order of the Revisional Court. The learned Magistrate, thereafter, hearing both the parties by the impugned order dated 02.07.2022, has dismissed the complaint.

Learned counsel for the petitioner submitted that an F.I.R. was lodged back in the year 2015, making allegations of forgery and cheating. Investigation was not conducted properly and final report was submitted. The petitioner filed a protest petition against it. Under the orders of the learned Magistrate, the petitioner produced his evidence under Sections 200 and 202 Cr.P.C. Being satisfied that a prima facie case is made out against respondents no.2 to 12, the learned Magistrate exercising his powers, has summoned the respondents no.2 to 12 for offence under Sections 420, 468 and 471 I.P.C. It is further contended that the Revisional Court without considering the evidence and other material on record, remanded back the matter. The Revisional Court utterly failed to appreciate that the offence has been committed by the respondents no.2 to 12 and the learned Magistrate being satisfied, has passed the summoning order. It is further contended that in view of the observations made by the Revisional Court, the learned Magistrate by the impugned order has dismissed the complaint, so the impugned order is wholly illegal and arbitrary.

From the above facts, it is clear that the final report was treated as a complaint, and the learned Magistrate after taking evidence under Sections 200 and 202 Cr.P.C., has passed the summoning order. This summoning order was challenged in the Revision No.11 of 2021. The Revisional Court has allowed the revision and

remanded back the matter to the learned Magistrate, for passing fresh order in the light of observations made in the order. The learned Magistrate again heard the parties and pass a fresh order, which is challenged in this petition under Article 227. By the impugned order dated 02.07.2022, the learned Magistrate has dismissed the petition under Section 203 Cr.P.C., hence, the petitioner has a remedy to file a fresh revision against the impugned order.

The petition under Article 227 is, hereby, **dismissed** with liberty to the petitioner to avail appropriate remedy available as per law.

Order Date :- 27.10.2023

SP/-