

Court No. - 81

Case :- MATTERS UNDER ARTICLE 227 No. - 4495 of 2023

Petitioner :- Arun Kumar

Respondent :- State Of U.P. And 3 Others

Counsel for Petitioner :- Vijay Praksah

Counsel for Respondent :- G.A.,Anup Swaroop Srivastava

Hon'ble Mrs. Jyotsna Sharma,J.

1. Heard Sri Vijay Prakash, learned counsel for the petitioner, Sri A.S. Srivastava, learned counsel for the respondent nos. 2 and 3 and learned A.G.A. for the State.

2. The material facts are as below:

3. The petitioner Arun Kumar, filed an application under section 156 (3) Cr.P.C. against O.P. nos. 1, 2 and 3, Smt. Jyoti, who happens to be his wife, Smt. Khusboo, who happens to be his wife's real sister and Jasveer Singh Mina, who happens to be the Bank Manager of P.N.B. Branch- Vapi, Surat, Gujarat, respectively with the allegations that there existed disputes between husband and wife and that several cases have been pending between them. The O.P. No.2 his wife and her sister are clever, cunning, scheming and dishonest persons and they fraudulently obtained the details of his bank account from the branch manager of concerned bank, which constituted an offence under sections 379, 405, 420, 120B I.P.C. and Section 43(B) and 66E, 67C of Information Technology Act. Hence, the police be ordered to register a case against all the three for aforesaid offences and investigate the same.

4. This application was moved on 17.08.2022. The learned Magistrate heard the applicant and treated the application as complaint and proceeded to adopt the procedure under section 200 and 202 Cr.P.C. The order treating the application moved under section 156 (3) Cr.P.C. as complaint was challenged in revision i.e. Revision of 572 of 2022. Both the sides were heard and revisional court dismissed revision finding no illegality or infirmity in the order of the trial court. Now the petitioner is before this court challenging the order of the trial court as well as the revisional court.

5. Respondent has submitted that the application under section 156 (3) Cr.P.C. was moved with a view to harass his wife and her family members. There is no substance in the allegations. The court ought to have rejected the application under section 156 (3) Cr.P.C., instead it took a lenient view and treated it as complaint. It is further argued that matter is under inquiry and the petitioner is yet to produce its evidence under section 200 and 202 Cr.P.C. In case, some substance is found, the court may proceed to take cognizance. In these circumstances, the orders of the trial court and the revisional court cannot be faulted.

6. I put a query to the petitioner to explain what are the facts in the application itself on the basis of which any of the offence under sections 379, 405, 420,

120B I.P.C. and Section 43(B) and 66E, 67C of Information Technology Act can be said to have been made out. No satisfactory reply came. I notice that the only allegation in the application is that the accused side obtained bank account number of the petitioner. There is no allegations of any misuse of such information. There is no allegation that any money has been fraudulently withdrawn. In fact there is no allegation in the application worth mention. In my view, the Magistrate committed no error by declining to register the case.

7. I do not find any good ground to allow this petition and it is therefore, **dismissed**.

8. Let the order of this Court be immediately certified to the court concerned.

Order Date :- 16.10.2023

Sumit Kumar