

Court No. - 81

Case :- MATTERS UNDER ARTICLE 227 No. - 5806 of 2023

Petitioner :- Jugal Kishore

Respondent :- Brahmanand

Counsel for Petitioner :- Siddarth Jaiswal

Hon'ble Mrs. Jyotsna Sharma,J.

1. Heard Sri Siddarth Jaiswal, learned counsel for the petitioner, Sri Rajesh Kumar Mishra, for the respondent, on whose behalf vakalatnama has been filed today, the same has been taken on record.

2. This petition has been filed challenging the order passed by revisional court in Revision No. 150 of 2022 (Brahmanand Vs. Jugal Kishore, by which the revision was allowed and the order of the Magistrate was set aside directing the Magistrate to adjudicate the matter afresh in the light of observations of the revisional court.

3. It is submitted on behalf of the petitioner that he moved an application under section 156 (3) Cr.P.C. naming the respondent, with the allegations that opposite side manipulated and fabricated attendance register maintained by his school, where he is working as Assistant Teacher. The allegation in nutshell is that he put his signature on the attendance register on 15.04.2017, though, he was absent on the date.

4. The above application was treated as complaint and the court proceeded to record the evidence under section 200 and 202 Cr.P.C.; the Magistrate summoned the accused for the offence under section 420 and 465 I.P.C.; accused preferred a revision; the revisional court, after hearing both the sides, observed that the school administration or any other on its behalf has not filed the complaint/application in question and that it is doubtful that the complainant had any *locus standi* in the matter.

5. On the basis of above observation, the revisional court directed the court concerned to apply his mind on this point and to pass a fresh order. In my view, the revisional court raised an issue which could have legal ramifications. The observation neither perverse nor illegal.

6. In my view, there is no good ground to interfere in the order in exercising of the power under Article 227 of Constitution of India. The power under Article 227 of the Constitution of India is definitely supervisory in nature, but it should be exercised sparingly and in appropriate cases, only to prevent miscarriage of justice or flagrant violation of law.

7. Exercise of this power and interfering with the orders of the courts or tribunals is restricted to cases of serious dereliction of duty and flagrant violation of fundamental principles of law or justice, where if the High Court does not interfere, a grave injustice remains uncorrected.

8. In view of the above, this petition is hereby **dismissed**.

Order Date :- 6.11.2023

Sumit Kumar