

Court No. - 81

Case :- MATTERS UNDER ARTICLE 227 No. - 6537 of 2023

Petitioner :- Dr Ram Kishor Tyagi

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

Counsel for Petitioner :- Sudhakar Singh

Counsel for Respondent :- G.A.

Hon'ble Mrs. Jyotsna Sharma,J.

1. Heard Sri Sudhakar Singh, learned counsel for the petitioner and Sri R.K. Verma, learned AGA for the State.

2. This petition has been filed by the petitioner with the submissions that Dharmveer Tyagi (his late father) was a member of Cooperative Sugarcane Development Society Ltd., Daurala and that he died on 27.07.2017. After his death, certain papers were prepared by the accused persons to harm his interest by preparing backdated false papers of resolution, to the effect that his name may be removed as a member. It is contended that a resolution was actually never passed and it was prepared by putting false signatures of the concerned persons. The rules of resolution were not adhered to, therefore he moved an application under section 156(3) Cr.P.C. for registration of FIR. The learned trial court instead of ordering for registration of an FIR, treated the same as a complaint. The contention in nutshell is that a cognizable case is made out, therefore the FIR should have been registered.

3. I went through the papers on record. The petitioner has not furnished copy of any such resolution purportedly prepared falsely and has not pin-pointed any of the role, (if any) which was allegedly played by the Supervisor of Cooperative Sugarcane Development Society Ltd. (respondent no. 3) and Sanjay Kumar (respondent no. 4). The allegations appear to be quite vague, however the learned Magistrate in its discretion treated the application as complaint. The learned court took into account all the facts and circumstances and relied upon the judgment of ***Gulab Chandra Upadhyay vs. State of U.P., 2002 ALJ 1225***. The learned trial court found that the allegation in essence was simply that without informing the applicant, his father's membership was terminated by putting false signatures on the resolution and therefore he incurred financial losses for the year 2017-18.

4. Admittedly the applicant has filed a case before the Consumer Forum i.e. case no. 78 of 2019 (Ram Kishore Tyagi vs. Society and Others) and also an arbitration case before the S.D.M./Sadar Meerut and both are pending. The petitioner has not even filed copies of such cases filed by him which could have given better picture of the controversy involved.

5. The revisional court could not disagree with the order of the Magistrate and relied upon the judgment of the Full Bench of Allahabad High Court in ***Sukhwasi vs. State of U.P., 2008 CRLJ 472***; and also the judgment passed in ***Smt. Ramavati Devi and Others vs. State of U.P. (Criminal Revision No. 2075 of 2014) decided on 05.08.2014*** and ***Gopal vs. Kanhaiyya Lal, 1984 M.P. WM 452***.

6. The only grievance of the petitioner is that his application was treated as complaint. I fail to understand how any of his right is affected by such order. In my view, no case is made out to interfere in the discretionary powers of the trial court, hence the petition is **dismissed**.

Order Date :- 16.12.2023

#Vikram/-