

Court No. - 90

Case :- APPLICATION U/S 482 No. - 20311 of 2023

Applicant :- Ravindra Kaushik

Opposite Party :- State Of U.P. And Another

Counsel for Applicant :- Rakesh Kumar Pandey

Counsel for Opposite Party :- G.A.

Hon'ble Dinesh Pathak,J.

1. Heard learned counsel for the applicant, learned A.G.A. and perused the record.

2. The present applicant has invoked the inherent power of this Court under Section 482 Cr.P.C. beseeching the quashing of cognizance/summoning order dated 28.6.2022 as well as entire criminal proceeding of Complaint Case No. 765 of 2022 (Nirmal Gasoline Vs. Ravindra Kaushik), under Sections 138 Negotiable Instrument Act (in brevity, N.I. Act), Police Station Kavi Nagar, District Ghaziabad pending before concerned court below.

3. Facts culled out from the averment made in the instant application are that opposite party No. 2 has moved an application/complaint dated 24.5.2022 under Section 138 of NI Act levelling allegation against the present applicant (accused) that owing to his liability to pay debt amounting to Rs. 12 lakhs, the present applicant has furnished a cheque bearing No. 000019 dated 21.01.2022 amounting to Rs. 3 lakhs drawn on HDFC Bank, however, while the cheque was presented before the bank, same was dishonoured for want of sufficient fund.

4. Learned counsel for the applicant has tried to dispute the factual aspect of the matter with respect to the transaction of money amounting to Rs. 12 lakhs as has been mentioned in the complaint and also furnishing of cheque in question which has been dishonoured from the drawee bank.

5. The point as is being tried to be raised by the learned counsel for the applicant is a disputed question of fact which can more appropriately be addressed/adjudicated upon by the court concerned before whom the aforesaid application is pending. As per the case of the applicant, he has already been enlarged on bail in the aforesaid matter and till date, no objection has been filed by

him before the court concerned assailing the factual aspect of the matter as mentioned in the complaint. In exercise of the inherent power under Section 482 Cr.P.C., this Court is not expected to examine the factual aspect of the case with respect to the veracity of the financial transaction took place between the parties and furnishing of the cheque as is being questioned by the learned counsel for the applicant.

6. In this conspectus, as above, I do not find any justifiable ground to interfere in the summoning order dated 28.6.2022 passed by the Civil Judge (Junior Division), Fast Track Court/Judicial Magistrate, Ghaziabad. Neither there is any abuse of the process of Court nor any adequate ground is made out to pass an order to secure the ends of justice. There is nothing on the record to demonstrate as to how the present applicant is prejudiced, or if is there likelihood of causing any miscarriage of justice, owing to the order impugned. As such, relief as claimed by the learned counsel for the applicant is hereby refused.

7. Before parting, learned counsel for the applicant has urged to issue a direction for expeditious disposal of the case pending under Section 138 NI Act before the court below.

8. Learned A.G.A. has no objection in case a direction is issued for expeditious disposal of the aforementioned case within stipulated period as may be directed by this Court.

9. Considering the facts and circumstances of the present case, learned trial court, before whom the aforesaid proceeding under Section 138 NI Act is pending, is hereby directed to consider and decide the said proceeding expeditiously, preferably, within the statutory period as enunciated under Section 143 (3) of the N.I. Act.

10. Accordingly, instant application is finally disposed of.

Order Date :- 12.10.2023

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