

**Court No. - 89**

**Case :-** APPLICATION U/S 482 No. - 26404 of 2023

**Applicant :-** Rishabh Awasthi

**Opposite Party :-** State of U.P. and Another

**Counsel for Applicant :-** Satya Dheer Singh Jadaun, Bhavesh Singh Jadaun

**Counsel for Opposite Party :-** G.A.

**Hon'ble Deepak Verma, J.**

1. Heard learned counsel for the applicant and learned A.G.A. for the State.
2. The present 482 Cr.P.C. application has been filed to quash the entire proceedings of Criminal Case No. 52383 of 2021 (State vs. Abhishek Singh and others), arising out of Case Crime No. 201 of 2016, under Sections 411, 413 IPC, Police Station- Akbarpur, District- Kanpur Dehat, pending in the Court of learned Chief Judicial Magistrate, Kanpur Dehat and to quash the cognizance order dated 22.01.2021 passed by the learned Chief Judicial Magistrate, Kanpur Dehat in Criminal Case No. 52383 of 2021 (State vs. Abhishek Singh and others), arising out of Case Crime No. 201 of 2016, under Sections 411, 413 IPC, Police Station- Akbarpur, District- Kanpur Dehat and also to quash the charge sheet dated 03.09.2016 submitted by the Investigating Officer in Case Crime No. 201 of 2016, under Sections 411, 413 IPC, Police Station- Akbarpur, District- Kanpur Dehat.
3. Counsel for the applicant has challenged the charge-sheet dated 03.09.2016 and cognizance order dated 22.01.2021. He next submitted that no offence under alleged sections is made out against the applicant. He next submitted that instant prosecutions is totally false and frivolous and not tenable in the eye of law. He next submitted that no vehicle has been recovered from the possession of the applicant. He next submitted that recovery is false and planted one. He next submitted that prosecution case is not supported by any independent witness. In support of his submissions, counsel for the applicant has placed reliance upon the judgment of Hon'ble Apex Court passed in the case of **Mahmood Ali & Ors. v. State of U.P. & Ors.; Criminal Appeal No. 2341 of 2023 (Arising out of S.L.P. (Criminal) No. 12459 of 2022)**; wherein in para no. 12, the Hon'ble Apex Court has held as under:-

*"12. At this stage, we would like to observe something important. Whenever an accused comes before the Court invoking either the inherent powers under Section 482 of the Code of Criminal Procedure (CrPC) or extraordinary jurisdiction under Article 226 of the Constitution to get the FIR or the criminal proceedings quashed essentially on the ground that such proceedings are manifestly frivolous or vexatious or instituted with the ulterior motive for wreaking vengeance, then in such circumstances the Court owes a duty to look into the FIR with care and a little more closely. We say so because once the complainant decides to proceed against the*

*accused with an ulterior motive for wreaking personal vengeance, etc., then he would ensure that the FIR/complaint is very well drafted with all the necessary pleadings. The complainant would ensure that the averments made in the FIR/complaint are such that they disclose the necessary ingredients to constitute the alleged offence. Therefore, it will not be just enough for the Court to look into the averments made in the FIR/complaint alone for the purpose of ascertaining whether the necessary ingredients to constitute the alleged offence are disclosed or not. In frivolous or vexatious proceedings, the Court owes a duty to look into many other attending circumstances emerging from the record of the case over and above the averments and, if need be, with due care and circumspection try to read in between the lines. "*

4. Per contra, learned AGA opposes the submissions made by counsel for the applicant and submits that submissions raised by counsel for the applicant are disputed questions of fact, which cannot be examined at this stage.

5. Considered the arguments raised by learned counsel for the applicant and perused the entire records. Submissions raised by learned counsel for the applicant are disputed questions of fact that whether the applicant was involved in the alleged crime or not, it cannot be examined at this stage. Prima Facie, it cannot be said that no offence is made out against the applicant and sitting under 482 Cr.P.C. jurisdiction, this Court has no power to examine the facts.

6. In view of the above, in the light of judgment of the Apex Court in the matters of **R.P. Kapur Vs. State of Punjab, A.I.R. 1960 S.C. 866, State of Haryana Vs. Bhajan Lal, 1992 SCC (Cr.) 426, State of Bihar Vs. P.P.Sharma, 1992 SCC (Cr.) 192 and lastly Zandu Pharmaceutical Works Ltd. Vs. Mohd. Saraful Haq and another (Para-10) 2005 SCC (Cr.) 283**, no ground for quashing the proceedings of the aforesaid case, is made out which may call for any interference by this Court in exercise of its inherent power under Section 482 Cr.P.C. as the same do not suffer from any illegality or infirmity.

7. The present application under Section 482 Cr.P.C. lacks merit and is, accordingly, **dismissed**.

**Order Date :- 16.11.2023**

Aditya