

Court No. - 88

Case :- APPLICATION U/S 482 No. - 29168 of 2023

Applicant :- Madhav Singh Baghel

Opposite Party :- State Of U.P. And 6 Others

Counsel for Applicant :- Jitendra Pal Singh

Counsel for Opposite Party :- G.A.

Hon'ble Sanjay Kumar Singh,J.

1-Heard learned counsel for the applicant and learned Additional Government Advocate for the State of U.P./opposite party no. 1.

2-This application under Section 482 Cr.P.C. has been preferred by the applicant with a prayer to quash the order dated 17.08.2022 passed by Civil Judge (J.D.)/J.M., F.T.C., Court No. 2, Aligarh in Complaint Case No. 562 of 2020, under Sections 147, 452, 406, 504, 506 I.P.C., Police Station Barla, District Aligarh and order dated 05.06.2023 passed by Additional District and Sessions Judge, Court No. 12, Aligarh in Criminal Revision No. 330 of 2023 (*Madhav Singh Baghel vs. State of U.P. and others*).

3-The brief facts of the case which are required to be stated are that on the application under Section 156(3) Cr.P.C. dated 15.11.2018 of the applicant, a first information report was lodged on 26.02.2019 against the opposite party no. 2 to 7 for the offence under Sections 147, 452, 406, 504 and 506 I.P.C., wherein he has alleged inter-alia that on 03.11.2023 Amar Singh and Chandrapal came to his house and demanded Rs. 1,00,000/- for purchasing a truck by saying that they will return the money within three years. He gave Rs. 1,00,000/- to them but on asking his money back, the accused persons refused to return his money. On 03.10.2018 accused persons came to his house and abused him and also threatened to kill, in which after culmination of investigation, final report was submitted on 10.05.2019. Against the said final report, applicant preferred a protest petition dated 23.10.2019 which was allowed treating the protest petition as a

complaint and thereafter, the said complaint has been dismissed under Section 203 Cr.P.C. by the Magistrate concerned vide order dated 17.08.2022. The applicant preferred a criminal revision no. 330 of 2023, which has also been dismissed vide order dated 05.06.2023. Both the aforesaid orders dated 17.08.2022 and 05.06.2023 are the subject matter of challenge in the present application.

4-The main substratum of argument of learned counsel for the applicant is that the complaint of the applicant has been illegally dismissed, whereas prima-facie offence is made out against the opposite party nos. 2 to 7.

5-Having heard the submissions of learned counsel for the applicant and perusing the record, I find that the basic dispute in this case is with regard to non return of Rs. 1,00,000/- given by the applicant to the applicant to Amar Singh and Chandrapal on 03.11.2010. On perusal of impugned order dated 17.08.2022, I find that learned Magistrate has recorded the finding that there is contradiction with regard to time of incident. In the complainant's date and time of incident has been mentioned as 03.10.2018 at 09:00 am whereas in the statement of the complainant, date and time of incident has been mentioned as 03.10.2018 at 09:00 pm. Regarding an incident dated 03.11.2010, application under Section 156(3) Cr.P.C. was moved on 05.11.2018, after delay of eight years, which does not inspire confidence. Further impugned order dated 17.08.2022 has been passed in the light of judgment of the Apex Court in the case of Pepsi Foods Ltd. vs. Special Judicial Magistrate, (1998) 5 SCC 749, wherein, it has been observed that summoning of an accused in a criminal case is a serious matter. Criminal law cannot be set into motion as a matter of course. It is not that the complainant has to bring only two witnesses to support his allegations in the complaint to have the criminal law set into motion. The order of the Magistrate summoning the accused must reflect that he has applied his mind to the facts of the case and the law applicable thereto.

6-I also find that both the courts below have passed the order considering all aspects of the matter which are required at this stage and the same are impeccable.

7-In view of the above, I do not find any good ground to interfere in the matter. The relief as sought for by means of this application is hereby refused.

8-The application lacks merit, and is accordingly, ***dismissed.***

Order Date :- 8.12.2023

Saurabh