

Court No. - 81

Case :- MATTERS UNDER ARTICLE 227 No. - 8176 of 2023

Petitioner :- Abdul Majid

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

Counsel for Petitioner :- V.K.S. Somvanshi

Counsel for Respondent :- G.A.

Hon'ble Mrs. Jyotsna Sharma,J.

1. Heard Sri R.K. Mishra, Advocate holding brief of Sri V.K.S. Somvanshi, learned counsel for the petitioner and Sri L.D.Rajbhar, learned A.G.A. for the State and perused the record.

2. This petition has been filed with following prayer:-

"Set aside orders dated 18.10.2021 (Annexure No.5) passed in complaint case no.317 of 2017 and 6.9.2019 (Annexure No.-3) passed by ld. Additional Sessions Judge, court no.14 Kanpur Nagar in criminal revision 1531 of 2017 and learned Magistrate respectively."

3. The petitioner filed a complaint against A To Z Maintenance & Engineering Services Limited Company registered office at Gurgaon, the opposite party no.2, its authorized representative, the opposite party no.3 and its Project Manager, the opposite party no.3 (showing the same address) with the allegations that complainant obtained a work order in pursuance of the written contract dated 03.11.2021, to which accused persons were signatories on behalf of the company. Complainant completed the project and prepared a bill to obtain the payments but accused persons did not pay the dues. The request made by the complainant went unheeded. In the end, the accused persons declined to pay his dues and threatened the complainant. The complainant issued the notice for payment of the dues but the accused persons did not pay and have misappropriated the money.

4. Learned trial court had proceeded to record the statements on the basis of evidence produced on behalf of the complainant in an enquiry which was conducted under Sections 200 and 202 Cr.P.C. Learned trial court opined that all the work was done at District Meerut, hence, the court at Kanpur Nagar was not empowered to take cognizance and, therefore, dismissed the same under Section 203 Cr.P.C.. The complainant preferred a revision. The same was also dismissed. The order dismissing the complaint under Section 203 Cr.P.C. and the order passed in revision affirming the complaint dismissal orders are under challenge now.

5. In para-5 of the order passed by the revisional court it has been observed that the complaint is based on allegation of breach of contract and therefore, the matter was essentially civil in nature. The revisional court further ordered that the complainant could have instead instituted a civil suit. Observations of the revisional court prima facie appear to be valid. In the next para it is

observed that as per the work order arising out of contract, everything was done at District Meerut and that the complainant did not say anything which could bring the matter within the cognizance of the court at Kanpur Nagar. This observation too appears to be valid. From the allegations itself an irresistible conclusion may be drawn that dispute is civil in nature, therefore, the jurisdiction of criminal courts cannot be invoked. In such circumstances, its rather difficult to apply the law as provided in Chapter XIII of Cr.P.C. The fact remains that a dispute of civil nature has been given shape of criminal one.

5. In these peculiar circumstances, I do not find it proper to interfere in the impugned orders.

6. The petition appears to be misconceived and devoid of substance and is therefore **dismissed**.

Order Date :- 8.12.2023

Asha