

Court No. - 92

Case :- APPLICATION U/S 482 No. - 18821 of 2008

Applicant :- Dr. Pradeep Kumar Chand

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

Counsel for Applicant :- Pankaj Bharti

Counsel for Opposite Party :- Govt. Advocate

Hon'ble Anish Kumar Gupta,J.

1. Heard Sri Pankaj Bharti, learned counsel for the applicant and Sri K.K. Tripathi, learned A.G.A. for the State.
2. The instant application has been filed seeking quashing of the summoning order dated 05-09-2006 passed by the Additional Chief Judicial Magistrate, Court No.1, Muzaffar Nagar in Complaint Case No. 1738/9 of 2003, 'Smt. Neerja Vs. Dr. Pradeep Kumar and another' under Sections 420, 467, 468, 471, 474, 406 IPC, P.S. New Mandi, district Muzaffar Nagar and also the order dated 16-06-2008 passed by learned Sessions Judge, Muzaffar Nagar in Criminal Revision No. 280 of 2008.
3. Learned counsel for the applicant submits that the opposite party no.2 was the wife of the applicant herein and they were having the joint account. The allegation against the applicant is that the applicant herein withdrawn the entire amount from the said account deposited by the complainant and after forging the signature of the complainant the applicant herein closed the said account.
4. The learned Magistrate after recording the statement of the applicant under Section 200 Cr.P.C., statement of one Dr. P.C. Agarwal as C.W.-1 under Section 202 Cr.P.C. and on the basis of the relevant documents available before him, the learned Magistrate vide order dated 05-09-2006 has taken cognizance of the offence against the applicant and has summoned the applicant for the offences under Sections 420, 467, 468, 471, 474, 406 IPC.
5. Against the aforesaid order the revision was filed by the applicant, which was dismissed by the impugned order dated 16-06-2008.
6. Learned counsel for the applicant submits that before taking cognizance in the matter in summoning the applicant herein, the learned Magistrate was duty bound to carry out an inquiry under

Section 202 (1) Cr.P.C. and it was also necessary for him to prima facie satisfy by calling a report from the handwriting expert whether the signatures were forged by the applicant herein, therefore, he has prayed for quashing of the said summoning order as well as the revisional order passed by the courts below.

7. Learned counsel for the State submits that while taking cognizance in the matter in terms of Section 190 Cr.P.C., the learned Magistrate is required to record his prima facie satisfaction to the facts whether an offence is made out from the said complaint case and the material available before him, therefore, in the instant case the learned Magistrate on the basis of the complaint as well as the statement under Sections 200 and 202 Cr.P.C. and the relevant documents filed by the complainant has recorded his prima facie satisfaction that the prima facie case is made out against the applicant herein, therefore, he has taken cognizance and issued summons against the applicant, therefore, there is no illegality in the summoning order and no interference is called for by this Court.

8. Having heard the rival submissions made by the learned counsel for the parties and this Court has carefully perused the record of the case and from the perusal of the complaint as well as the statement under Sections 200 and 202 Cr.P.C. and the relevant materials, it is prima facie apparent that the prima facie case is made out against the applicant, therefore, there is no illegality in taking cognizance and summoning the applicant herein. The argument advanced by the learned counsel for the applicant with regard to the inquiry under Sections 202 (1) Cr.P.C. is concerned, the learned Magistrate has taken the statements of the witnesses under Sections 200 and 202 Cr.P.C and has considered the material available before him before taking cognizance in the matter and summoning the accused person, therefore, there is no illegality in the said summoning order and the instant application lacks merit and is hereby **dismissed**.

Order Date :- 12.10.2023

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