

Court No. - 91

Case :- APPLICATION U/S 482 No. - 39394 of 2016

Applicant :- Sachin Yadav

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

Counsel for Applicant :- Ashish Kumar Singh, Om Prakash Rai

Counsel for Opposite Party :- G.A.

Hon'ble Gajendra Kumar, J.

1. Heard learned counsel for the applicant, learned A.G.A. for the State- opposite party and perused the record.

2. This application under Section 482 Cr.P.C. has been filed by the applicant with the prayer to quash/ stay the order dated 01.04.2016 passed by Court of Judicial Magistrate, Garhmukhteshwar & order dated 15.09.2016 passed in Criminal Revision No.39 of 2016 and further release the amount in favour of applicant of Rs.8,10,000/- deposited in P.S. Simbhawali pending before the Judicial Magistrate, Garhmukhteshwar, Hapur arising out of Case No.615 of 2016 and N.C.R. No. 15 of 2016, under sections 171 E of I.P.C., Police Station Simbhawali, District Hapur.

3. It is submitted by learned counsel for the applicant that initially one NCR was lodged by the informant namely Deepak Kumar, Tehsildar, Sadar Hapur on 07.02.2016 as NCR No.15 of 2016 U/s 171 E IPC, P.S. Simbhawali, District Hapur. Further submission is that the Investigating Officer after completing the investigation has submitted charge sheet under section 171 E IPC against the applicant and 5 others and the amount of Rs.8,10,000/- was seized by the competent authority. It is further submitted that the applicant filed a release application before the trial court but the learned Additional Civil Judge (J.D.) Garhmukhteshwar, Hapur

rejected the said application vide order dated 01.04.2016 against which a revision challenging the order dated 01.04.2016 was filed before the court below which was also dismissed by the revisional court vide order dated 15.09.2016 without considering the case on merits. The main submission of learned counsel for the applicant is that the applicant has taken the said amount for purchase of land and it was wrongly seized by the competent authority. It is also submitted that there is no other claimant of the said amount and the applicant has been falsely implicated in the present criminal case, in a mechanical manner. Further submission is that the ingredients of Section 171 E IPC is not made out against the applicant and the proceedings initiated against the applicant is totally unjust, arbitrary, illegal and bad in the eyes of law.

5. Per contra, learned A.G.A. submitted that both the impugned orders have been passed by the court below after considering all the aspects of the case as it is mentioned in the order that the applicant was carrying the money on the day of election and further no satisfactory evidence has been led by the applicant in respect of money recovered from him.

6. In view of the submissions and contentions made by learned counsel for the parties as well as material available on record, this court does not find any such glaring abuse of court's process which may persuade this court to invoke its inherent jurisdiction provided under section 482 Cr.P.C. to interference in the impugned orders which reflects judicial application of mind. The impugned order dated 01.04.2016 passed by the Magistrate concerned has been passed after discussing the matter at length and the revisional court too has passed the impugned order dated 15.09.2016 after considering all the aspects of the case. In view of above, as the matter has been discussed at length and decided by the court

below, the prayer for quashing the impugned orders is hereby refused.

7. The present application under Section 482 is devoid of merit and is accordingly **dismissed**.

Order Date :- 31.10.2023

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