

Court No. - 93

Case :- APPLICATION U/S 482 No. - 31180 of 2023

Applicant :- Rakesh Singh

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

Counsel for Applicant :- Amar Nath Tiwari

Counsel for Opposite Party :- G.A.

Hon'ble Arun Kumar Singh Deshwal,J.

1. Heard Sri Amar Nath Tiwari, learned counsel for the applicant and Sri Uday Bhan, learned AGA for the State.

2. The present 482 Cr.P.C. application has been filed to quash the entire proceedings as well as impugned summoning order dated 10.05.2022 passed by Judicial Magistrate, Court No.11, Deoria in Complaint Case No.4597 of 2019 (Ganga Mall Vs. Rakesh Singh), under Sections-406, 506 IPC, Police Station-Rudrapur, District-Deoria, pending in the court of Judicial Magistrate, Court No.12, Deoria.

3. Contention of learned counsel for the applicant is that as per the allegation of the impugned complaint, Rs.5,00,000/- was given by the opposite party no.2 to the applicant in 2015 and on non-returning of the same, impugned complaint was filed after the expiry of three years. It is further contended by learned counsel for the applicant that the applicant has already paid the aforesaid amount to the daughter-in-law of the opposite party no.2 and in support of his contention, applicant has also filed an affidavit dated 05.08.2023, which is annexed at page no.53 of the application. Such contention

of the applicant cannot be a ground for quashing the impugned proceeding but this defence can be considered at the time of trial.

4. In view of the above, prayer for quashing the impugned proceeding is **rejected**. However, it is provided if the applicant appears before the court below, within a period of three weeks and applies for bail, then his bail application shall be considered in view of the law laid down by the Apex Court in ***Satendra Kumar Antil vs. Central Bureau of Investigation and Another, (2021) 10 SCC 773.***

5. It is further provided that applicant has a remedy to file a discharge application at the appropriate stage.

6. With the above observations, the present application is **disposed of**.

Order Date :- 16.10.2023
S.Chaurasia