Court No. - 88

Case :- APPLICATION U/S 482 No. - 32173 of 2023

Applicant :- Shakir Ali
Opposite Party :- State of U.P.
Counsel for Applicant :- Najakat Ali
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-The instant application under Section 482 Cr.P.C. has been filed by the applicant with a prayer to quash the order dated 03.11.2020 passed by Civil Judge (Jr. Division)/A.C.J.M, Rampur in Criminal Misc. Case No. 170 of 2020 whereby the application under Section 156(3) Cr.P.C. of the applicant has been rejected as well as order dated 28.07.2023 passed by learned Sessions Judge, Rampur in Criminal Revision No. 38 of 2021 *(Shakir Ali vs. Unknown Thieves)* whereby the revision preferred by the applicant against the order dated 03.11.2020 has also been dismissed.

3-The main substratum of argument of learned counsel for the applicant is that the learned Magistrate has committed legal error in rejecting the application dated 03.11.2020 under Section 156(3) Cr.P.C. of the applicant instead of treating the said application as complaint case, therefore, the same is not sustainable. So far as the order dated 28.07.2023 passed by learned Sessions Judge is concerned, it is argued that though the proper explanation was given by the applicant for condoning the delay but the same has not been considered and illegally rejected the delay condonation application of the applicant.

4-On the other hand, learned A.G.A. opposing the aforesaid submissions of learned counsel for the applicant submits that the vehicle of the applicant was financed from Tata Motors Finance Ltd. The receipt of deposit of instalment of loan amount which was filed by the applicant along with the

application under Section 156(3) Cr.P.C. was dated 29.08.2017 whereas the alleged incident has taken place on 12.06.2019. The applicant has also not filed the complete receipt of payment of loan up to the date of incident and no-dues certificate, which creates doubt upon the prosecution case.

5-Having heard the submissions of learned counsel for the parties and perusing the record, I find that the learned Magistrate while passing the order dated 03.11.2020 has observed that the vehicle, in question, was financed by a finance company and an application was moved showing the hypothetical incident of theft of the said vehicle without disclosing the name of cleaner, so that he may get relief from paying the loan amount and further he may obtain claim of theft of his vehicle from the finance company. So far as the order dated 28.07.2023 passed by revisional court is concerned, I also find that there was delay of 53 days in filing the criminal revision without any plausible explanation, therefore, the delay condonation application same was rightly dismissed.

6-In view of the above, I do not find any good ground to interfere in the impugned orders dated 03.11.2020 and 28.07.2023 as the same are impeccable.

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

Order Date :- 8.11.2023
Saurabh

Digitally signed by :-
SAURABH KUMAR
High Court of Judicature at Allahabad