

Court No. - 88

Case :- APPLICATION U/S 482 No. - 32753 of 2023

Applicant :- Saurabh Gupta And Anther

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

Counsel for Applicant :- Mayank Srivastava

Counsel for Opposite Party :- G.A.,Prem Chandra Dwivedi

Hon'ble Sanjay Kumar Singh,J.

1. Heard learned counsel for the applicants, learned Additional Government Advocate for the State of U.P./opposite party no.1, learned counsel for the opposite party no.2 and perused the record.

2. This application under Section 482 Cr.P.C. has been filed by the applicants with a prayer to quash the summoning order dated 27.02.2023 as well as proceedings of Complaint Case No. 299 of 2018 (Smt. Neetu Sharma Vs. Saurabh Gupta and another), under Section 420 I.P.C., Police Station Sikandara, District Agra, pending in the court of learned Additional Chief Judicial Magistrate, Court No.2, Agra.

3. On 16.11.2023 following order was passed by this Court:-

"Main dispute in this case is that complainant had booked a flat and had given a sum of Rs. 9,00,000/- to the applicants - Saurabh Gupta and Nitin Gupta but they have neither given possession of the flat in question nor returned the amount.

Learned counsel for the applicants after advancing some arguments submits that the applicants are willing to give possession of the flat in question to opposite party no. 2.

On the undertaking given on behalf of the applicants, this Court feels that before passing any order in the matter, one opportunity of hearing to opposite party no. 2 is necessary.

Learned Government Advocate has accepted notice on behalf of the State of U.P./opposite party no. 1.

Let a notice be issued to opposite party no.2 through Chief Judicial Magistrate, Agra returnable at an early date.

Steps be taken within five days.

List this case as fresh on 08.12.2023 for further hearing.

It is made clear that mere pendency of this application before this Court shall not be treated as stay of the proceeding before the concerned Court below."

4. Today on the matter being taken up, at the outset learned counsel for the applicants gave up his challenge to the aforesaid impugned summoning order as well as impugned criminal proceedings against the applicants and confined his submission requesting to grant some protection to the applicants to surrender before the concerned court below. The learned counsel for the applicants further stated at the Bar that he is not pressing any other prayer made in this application on merits and prayed that a direction may be issued to the concerned courts below to consider and decide the bail application of the applicants expeditiously.

5. Learned A.G.A. for the State of U.P. as well as learned counsel for opposite party no.2 submit that in case the applicants are not pressing the relief as sought for by them on merits and want to surrender before the concerned court below, they have no objection if the Court grants protection to them for a short period.

6. In view of the above, the relief as sought by the applicants in the instant application is refused.

7. However considering the aforesaid alternative prayer made by learned counsel for the applicants, it is directed that the applicants shall surrender before the concerned court below within two weeks from today and in case they apply for bail, the bail application of the applicants shall be disposed of expeditiously by the courts below in accordance with law and keeping in view the guidelines as laid down by the Apex Court in the case of **Satender Kumar Antil vs Central Bureau of Investigation and another**, reported in **2021 SCC Online SC 922**.

8. For the period of two weeks from today or till the time of surrender of the applicants before the concerned court below, whichever is earlier, they shall not be arrested in the above case.

9. With the above observations and directions, this application under Section 482 Cr.P.C. is disposed of.

Order Date :- 8.12.2023

Kashifa