

Court No. - 93

Case :- APPLICATION U/S 482 No. - 34201 of 2023

Applicant :- Shuaib

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

Counsel for Applicant :- Suneel Kumar Mishra

Counsel for Opposite Party :- G.A.

Hon'ble Arun Kumar Singh Deshwal,J.

1. Heard learned counsel for the applicant and learned AGA for the State.
2. By way of present application, the applicant has challenged the order dated 28.07.2023 passed by Special Judge (E.C. Act)/Additional Session Judge, Rampur in Criminal Revision No.239 of 2022 as well as order dated 30.09.2022 passed by Additional Chief Judicial Magistrate, Rampur in Complaint Case No.67 of 2020 (Haseen Ahmad Vs Shuaib), u/s-138 of N.I. Act, Police Station-Shahjadnagar, District-Rampur, by which application under Section-156(3) Cr.P.C. was registered as complaint case instead of FIR.
3. A preliminary objection has been raised by learned A.G.A. as per order of the Apex Court passed in the case of **Radhey Shyam Vs. State of U.P.** reported in **(2015) 5 SCC 423**, wherein it is observed that all the judicial orders will be challenged under Article 227 of the Constitution of India.
4. This Court is of the view that Hon'ble Apex Court clearly observed in the aforesaid judgment that all the judicial orders will be challenged in the supervisory jurisdiction of the High Court under Article 227 of the Constitution of India, therefore, judicial orders should normally be challenged under Article 227 of the

Constitution of India. However, Hon'ble Apex Court in the case of **Prabhu Chawla Vs. State of Rajasthan and another, (2015) 17 SCC (562)** observed that alternative remedy is not a bar to exercise jurisdiction u/s 482 Cr.P.C. in exceptional case. Therefore, in exceptional case application u/s 482 Cr.P.C. may be entertained against judicial order in the interest of justice.

5. In the present case, the applicant could not make out the case of exceptional nature, which could persuade this Court to exercise its inherent power under Section 482 Cr.P.C.

6. In view of the above legal position, applicant is permitted to file Petition under Article 227 of the Constitution of India for challenging the impugned judicial orders.

7. With the aforesaid observation, the present application is **dismissed**.

8. Certified copy of the impugned order, if any, may be returned to learned counsel for the applicant after retaining xerox copy of the same.

Order Date :- 18.10.2023

S.Chaurasia