

**Court No. - 90**

**Case :-** APPLICATION U/S 482 No. - 34557 of 2023

**Applicant :-** Zaid Sherwani

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

**Counsel for Applicant :-** Ram Kumar Yadav, Ali Bin Saif

**Counsel for Opposite Party :-** G.A.

**Hon'ble Dinesh Pathak, J.**

1. Heard Sri Ali Bin Saif, learned counsel for the applicant and Sri P.K. Giri, learned Additional Advocate General for the State.

2. The present applicant has invoked the inherent power of this Court under Section 482 Cr.P.C. for the following relief:-

*"It is, therefore, most respectfully prayed that this Hon'ble Court may graciously be pleased to allow the present application and quash the order dated 22.02.2023 passed by the Additional District Court No.10 at Aligarh in Criminal Revision No.11 of 2023 (Zaid Sherwani Vs. State of U.P.), pending in the court of Additional Session Judge, Court No.1, Aligarh."*

3. As per FIR version, being Case Crime No.0697 of 2019 dated 10.12.2019 under Sections 147, 188 and 353 IPC, lodged on behalf of the police personnel, all the accused persons including the present applicant have violated the promulgation of District Magistrate under Section 144 Cr.P.C. and have applied the criminal force to deter the public servant to discharge his duty.

4. After due investigation, Investigating Officer has submitted the charge sheet dated 11.06.2020 arraigning 19 accused including the present applicant. Learned Chief Judicial Magistrate, Aligarh has passed the cognizance/summoning order dated 15.06.2020. Having been dissatisfied with the summoning order dated 15.06.2020, present applicant has moved an application dated 02.08.2022 questioning the cognizance order with a prayer that the criminal proceedings against the present applicant may be dropped for want of compliance of the provisions as enunciated under Section 195 Cr.P.C. Learned Chief Judicial Magistrate, vide order dated 17.11.2022, has rejected the application dated 02.08.2022 moved by the present applicant citing the reasons that there is no provisions under Cr.P.C. to recall/reject the cognizance order. Having been aggrieved, the present applicant has preferred revision being Criminal Revision No.11 of 2023, however, learned

revisional court has dismissed the revision vide order dated 22.02.2023, which is under challenge before this Court.

5. Instant application under Section 482 has been filed for limited purpose to quash the revisional order dated 22.02.2023. There is no prayer for quashing the cognizance/summoning order dated 15.06.2020, I do not find any justifiable ground in exercise of inherent jurisdiction under Section 482 Cr.P.C. to interfere in the order dated 17.11.2022 passed by the learned Chief Judicial Magistrate rejecting the application dated 02.08.2022 filed by the present applicant and order dated 22.02.2023 passed by the revisional court in a criminal revision arising out of order dated 17.11.2022. It is no more res-integra that once cognizance order has been passed by the learned Magistrate, right or wrong, he has no jurisdiction to recall or reject his cognizance order. Applicant has a remedy at the time of framing of charges to move an appropriate application for his discharge questioning the offence under which he has been summoned.

6. Learned counsel for the applicant, though, has advanced his submissions in the light of the provisions as enunciated under Section 195 Cr.P.C., however, while examining the orders dated 17.11.2022 and 22.02.2023, it would be befitting to go beyond the realm of aforesaid orders which are under challenge. There is no abuse of process of court or any justifiable ground to pass an order to secure the ends of justice in the instant matter so as to warrant the indulgence of this Court in exercise of inherent jurisdiction under Section 482 Cr.P.C.

7. Resultantly, instant application, being misconceived and devoid on merits, is **dismissed** with no order as to costs.

**Order Date :- 19.10.2023**

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