

Court No. - 81

Case :- MATTERS UNDER ARTICLE 227 No. - 9556 of 2023

Petitioner :- Vikrant Treders Proprieter

Respondent :- State of U.P. and Another

Counsel for Petitioner :- Vivek Kumar Tiwari

Counsel for Respondent :- G.A.

Hon'ble Mrs. Jyotsna Sharma,J.

1. Heard Shri Vivek Kumar Tiwari, learned counsel for the petitioner and Shri R.K.Gupta, learned AGA for the State and perused the record.

2. This petition has been filed for following relief -

"(I) to issue a order or direction to set aside the order dated 13.04.2023 passed by Additional Sessions Judge, Court No.07, Meerut in Criminal Revision No.610 of 2022, under Sections 406, 420, 467, 468 & 471 IPC arising out of order dated 01.08.2022 in Complaint Case No.1519 of 2022 (Vikrant Traders Proprietor Vs. Moorasleen), Police Station Bhavanpur, District Meerut, as well. "

3. Relevant facts are as below:-

The complainant filed a complaint Case No.1591 of 2022 before the Additional Chief Judicial Magistrate, Court No.2, Meerut with following allegations that the complainant is a firm carrying on business, as such, the opposite party has business relations with the complainant for the last three years. The accused, opposite party used to take cement etc. on credit. An amount of Rs.3,50,000/- became due on him. When the complainant demanded his money, he issued a signed cheque of Syndicate Bank. The complainant produced the cheque before the Bank for encashment, the Bank did not receive the cheque saying that Syndicate Bank has merged into Canara Bank, such a cheque therefore, can not be encashed and returned the same. The complainant contacted the accused on his mobile number but he did not respond. It is, further alleged that the accused wanted to misappropriate his money, therefore, intentionally issued the cheque, which was not meant for encashment. He did not reply to the notice given by the complainant, an offence under Section 420, 467, 468, 471 and 406 IPC are made out. Hence, the accused may be summoned. The Court concerned proceeded on the complaint and recorded the statements under Sections 200 and 202 Cr.P.C. The learned Magistrate heard the complainant and while dismissing the complaint under Section 203 Cr.P.C. observed that the dispute is of purely civil nature and that there was no material to suggest that the complainant was defrauded of his money intentionally and that prima facie no offence is made amount. The complainant, therefore, preferred a revision challenging the dismissal of the complaint. The revisional Court agreed with the view taken by the trial Court and dismissed the revision.

4. From the submissions of learned counsel for the petitioners and papers on record, this undisputed fact emerges that the respondent issued a signed

cheque for payment of money. This is not disputed that the cheque was not accepted by the Bank for some technical reason. This is not disputed that both sides have business relations since quite sometime. This too is not disputed that the cheque was issued for payment of money due on him.

5. There is nothing to suggest that any false and fabricated documents was prepared and the same was issued to the complainant with intention to cheat him or to defraud him. The essential ingredients constituting offence as alleged by the complainant are missing. Learned trial Court as well as revisional Court have passed the orders giving cogent reasons. The dispute appears to be purely of civil nature and cannot be allowed to convert into criminal one.

6. In my opinion, no good ground to interfere in the impugned orders in exercise of powers under Article 227 of the Constitution of India is made out.

6. Hence, this petition is **dismissed**

Order Date :- 12.10.2023

RKM