

Court No. - 86

Case :- APPLICATION U/S 482 No. - 36723 of 2023

Applicant :- Sitaram Maurya

Opposite Party :- State Of U.P. And 2 Others

Counsel for Applicant :- Rudra Kant Mishra

Counsel for Opposite Party :- G.A., Sushil Kumar Pandey

Hon'ble Rajiv Gupta, J.

1. Heard learned counsel for the applicant, learned AGA for the State, Shri Sushil Kumar Pandey, learned counsel for the opposite party no.3 and perused the record.
2. This application under Section 482 Cr.P.C. has been filed with the prayer to quash the charge-sheet dated 09.03.2022 and cognizance order dated 15.11.2022 as well as entire proceedings of Criminal S.T. No. 864 of 2022 (State Vs. Sitaram Maurya), arising out of Case Crime No. 84 of 2020, under Section 135 of Electricity Act, Police Station Anti Power Theft, District Sonbhadra, pending in the court of Additional Sessions Judge, Court No.1, Sonbhadra.
3. As per the allegations made in the FIR as well as statement of the witnesses recorded under Section 161 CrPC, it is alleged that on 14.03.2020, the first informant along with authorities of Electricity Department reached at the premises of the applicant at about 12:20 Noon and on checking the Electricity Connection No.751732025216 and the meter installed therein, it was found that by bypassing the meter, illegal supply of electricity was being made by the applicant, which falls within the definition of theft of electricity and as such, present FIR was lodged against the applicant.
4. On the basis of the said allegations, the police thoroughly investigated the matter and submitted charge-sheet against the applicant. On the basis of which, learned court below has taken cognizance and summoned the applicant to face trial under Section 135 of Electricity Act vide order dated 15.11.2022.
5. Being aggrieved and dissatisfied by the said order dated 15.11.2022, the present application under Section 482 CrPC has been filed by the applicant before this Court.
6. Learned counsel for the applicant has submitted that applicant is wholly innocent and has been falsely implicated

in the present case due to ulterior motive.

7. Learned counsel for the applicant has further submitted that neither the said Electricity Connection No.751732025216 has been allotted to the applicant nor the meter has been installed in his name in the premises and as such, no offence under Section 135 of Electricity Act is made out against the applicant.

8. Learned counsel for the applicant has next submitted that in fact, no inspection was made at the premises of the applicant by opposite party no.2 along with police authorities as alleged in the FIR and only on the basis of cooked up and concocted allegations just to harass the applicant, the present criminal case has been instituted against him.

9. Learned counsel for the applicant has next submitted that from perusal of the allegations made in the FIR as well as statement of the witnesses recorded under Section 161 CrPC, no offence is disclosed against the applicant and the present criminal case has maliciously been instituted against the applicant just with an intention to harass the applicant and as such, impugned charge-sheet and cognizance order as well as entire proceedings are liable to be quashed.

10. Per contra, learned AGA as well as learned counsel for the opposite party no.3 has vehemently opposed the said prayer and has submitted that from perusal of the allegations made in the FIR and the material collected during the course of investigation, prima facie offence is clearly made out against the applicant and as such, impugned charge-sheet and cognizance order and entire proceedings cannot be quashed.

11. Learned counsel for the opposite party no.3 has further submitted that applicant is admittedly living in the said premises and an illegal use of electricity by bypassing the meter has been found, on the basis of which, present FIR has been lodged against the applicant and the police after concluding the investigation and collecting cogent and reliable evidence, submitted charge-sheet against the applicant, on which, learned Magistrate has taken cognizance and has rightly summoned the applicant to face trial under Section 135 of Electricity Act vide order dated 15.11.2022, which order is just, proper and legal and do not call for any interference.

12. Having considered the rival submissions made by learned counsel for the parties and from perusal of the

material available on record, it is evident that from allegations made in the FIR as well as statement of the witnesses recorded under Section 161 CrPC, prima facie offence of theft of electricity is clearly made out against the applicant. All the submissions made at the bar relate to the disputed questions of fact, which cannot be adjudicated upon by this Court in exercise of powers under Section 482 Cr.P.C, when the entire evidence is yet to come.

13. At this stage, only prima facie case is to be seen and disputed question of fact cannot be considered, therefore, in view of the law laid down by the Hon'ble Apex Court in the cases of **R.P. Kapur Vs. State of Punjab, AIR 1960 SC 866**, **State of Haryana Vs. Bhajan Lal, 1992 SCC (Cri.) 426**, **State of Bihar Vs. P.P. Sharma, 1992 SCC (Cri.) 192** and **lastly Zandu Pharmaceutical Works Ltd. Vs. Mohd. Saraful Haq and another, (Para-10) 2005 SCC (Cri.) 283**, the prayer for quashing the impugned charge-sheet and cognizance order and entire proceedings is refused.

14. It is well settled principle of law that power under Section 482 CrPC is to be exercised sparingly with circumspection and not in a routine and casual manner in the rarest of rare cases and that inherent power do not confer an arbitrary jurisdiction on the Court to act according to its whims and caprices.

15. In view of the foregoing discussions, I am of the considered view that the prima facie offence is clearly disclosed against the applicant and as such, entire proceedings can not be quashed in exercise of power under Section 482 CrPC.

16. The application under Section 482 CrPC is devoid of merits and is accordingly **dismissed**.

Order Date :- 8.11.2023

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