

Court No. - 89

Case :- APPLICATION U/S 482 No. - 35437 of 2023

Applicant :- Ravi Kumar Gupta

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

Counsel for Applicant :- Ashish Kumar Gupta

Counsel for Opposite Party :- G.A.

Hon'ble Deepak Verma,J.

1. Heard learned counsel for the applicant and learned A.G.A. for the State.

2. This application under Section 482 Cr.P.C. has been filed by the applicant to quash the entire proceedings as well as order dated 04.06.2022 and 10.08.2023 passed by the Presiding Officer, Additional Court, Varanasi in Complaint Case No. 2208 of 2019 (Umapati Pandey vs. Ravi Kumar Gupta), under Section 138 of Negotiable Instrument Act, Police Station- Sagra, District-Varanasi, pending in the court of Presiding Officer, Additional Court, Varanasi.

3. Learned counsel for the applicant submits that complainant has initiated proceedings under Section 138 of N.I. Act against the applicant and thereafter, moved an application under Section 143-A of N.I. Act for interim maintenance. The court below vide order dated 04.06.2022 allowed the interim maintenance application and directed the applicant to deposit 20% of the cheque amount as an interim maintenance. Counsel for the applicant further submits that applicant filed objection and the same was rejected vide order dated 10.08.2023. He next submits that orders dated 04.06.2022 and 10.08.2023 passed by learned Magistrate are without application of judicial mind. Counsel for the applicant further placed reliance over paragraph no. 11 of the Bombay High Court (Nagpur Bench) judgment passed in the case of **Mr. Ashwin Ashokrao Karokar Vs. Mr. Laxmikant Govind Joshi; 2022 0 Supreme(Bom) 825** and submits that awarding of interim maintenance is discretionary power of and exercise of any discretion conferred upon a court, must be for reasons to be spelt out, indicating application of mind by the court to the facts available before it in the application of the law to such facts.

4. Per contra, learned A.G.A. opposes the submissions raised by

counsel for the applicant.

5. Considered the submissions raised by counsel for the parties and perused the entire record.

6. The impugned order dated 04.06.2022 is hereby set aside with the direction that if applicant deposits 10% of the alleged cheque amount within 15 days from the date of production of certified copy of this order, the proceedings under Sections 138 of Negotiable Instrument Act, shall be completed within a period of three months thereafter.

7. With the aforesaid directions, this application under Section 482 Cr.P.C. stands **disposed of**.

8. However, if applicant fails to comply the order passed today, the court concerned shall proceed in accordance with law and the order passed today shall have no effect.

Order Date :- 4.12.2023

Aditya