Court No. - 88
Case :- APPLICATION U/S 482 No. - 35944 of 2023

Applicant :- Gaurav Rai
Opposite Party :- State Of U.P.And Another
Counsel for Applicant :- Lavkush Kumar Shukla
Counsel for Opposite Party :- G.A.

Hon'ble Sanjay Kumar Singh,J.

1-Heard learned counsel for the applicant, learned Additional Government Advocate for the State of U.P. /opposite party No.1.

2-This application under Section 482 Cr.P.C. has been filed by the applicant for quashing the summoning order dated 21.02.2022, non-bailable warrant dated 08.08.2023 and proceedings of complaint case no. 12810 of 2021 (Ravi Prakash Gupta vs. Gaurav Rai), under section 138 of Negotiable Instrument Act, Police Station Hariparvat, District Agra pending in the court of Judicial Magistrate/Additional Civil Judge (J.D.), Court No. 1, Agra.

3-It is submitted by the learned counsel for the applicant that the entire allegations against the applicant are false. Referring to the entire evidence and material available on record, it is submitted that the summoning order is illegal and has been passed without application of judicial mind. No cause of action arose to file the complaint in question.

4-Per contra, learned Additional Government Advocate supported the order of the learned court below by contending that the summoning order is well reasoned. The prosecution case as mentioned in the complaint prima facie discloses a cognizable offence. The defence of the accused-applicant can not be considered at this stage.

5-I have considered the rival submissions made by the learned counsel for the parties and perused the entire record carefully. The submissions made by the learned counsel for the applicant call for adjudication on pure questions of fact, which may be adequately

adjudicated upon only by the trial court and while doing so even the submissions made on points of law can also be more appropriately gone into by the trial court in this case. This Court does not deem it proper, and therefore, cannot be persuaded to have a pre-trial before the actual trial begins. A threadbare discussion of various facts and circumstances, as they emerge from the allegations made against the accused, is being purposely avoided by the Court for the reason, lest the same might cause any prejudice to either side during trial. But it shall suffice to observe that perusal of the complaint, and also the material available on record make out a prima facie case against the accused at this stage and there appear to be sufficient ground for proceeding against the accused. I do not find any justification to quash the complaint or the summoning order or the proceedings against the applicant arising out of them as the case does not fall in any of the categories recognized by the Apex Court which may justify their quashing. The prayer for quashing the same is refused as I do not see any abuse of the Court's process either.

6-In the last, the learned counsel for the applicant has urged before the Court that the facts and circumstances of the case and the nature of offence involved are such in which the litigating parties should be given a chance to settle this matter amicably and for this purpose some protective direction may be given by this Court so that adequate steps may be taken in furtherance of the same object. Learned counsel for the applicant has also placed reliance upon judgments of the Apex Court in the cases of **Damodar S. Prabhu Vs. Sayed Babalal H., 2010 (5) SCC 663** and **M/s Meters and Instruments Private Limited and another vs. Kanchan Mehta, 2018(1) SCC 560** and further submitted that the Apex Court in the aforesaid cases has taken cognizance of the heavy pendency of the cases in the courts which may result ultimately in the chocking of criminal justice system. It has been urged that with the laudable object of providing the rival parties, who have hitherto locked their horns in litigation, an opportunity to arrive at a

mutually agreeable settlement and put to an end to the escalating litigations, the compounding of the offence has not only been encouraged but in order to given incentive to do so at the earliest stage, certain guidelines have also been issued by the Hon'ble Supreme Court.

7-As requested by the learned counsel for the applicant, it is directed that the accused may appear before the Court below within a period of one month from today through the representing counsel and move an application seeking compounding of offence through compromise. On such application being moved, the concerned Court may take adequate steps in accordance with law in this regard and shall provide further opportunity to the accused which shall not exceed a maximum period of three months from today to make an endeavour in this direction. Thereafter, the Court shall pass necessary orders specifically keeping in view the law laid down by the Apex Court in the case of Damodar S. Prabhu (Supra) as also the latest amendment made in the N.I. Act within a period of four months from today. If the decision of the Court given in the light of the application does not conclude the proceedings against the accused and he is further required to appear and face the trial, the Court shall be at liberty to proceed in accordance with law against the accused and take all necessary steps and measures to procure his attendance as the law permits.

8-In the aforesaid period of four months or till the decision given in the light of the application, whichever is earlier, no coercive measures shall be adopted against the applicant.

9-It is made clear that no application for extension of time shall be entertained if this order is not availed by the applicant within the stipulated period of time.

10-With the aforesaid observations/directions, this application under section 482 Cr.P.C. is ***disposed of***.

Order Date :- 16.10.2023
Saurabh

Digitally signed by :-
SAURABH KUMAR
High Court of Judicature at Allahabad