

Court No. - 91

Case :- APPLICATION U/S 482 No. - 36926 of 2023

Applicant :- Vinod Kumar Prajapati

Opposite Party :- State Of U.P. And 9 Others

Counsel for Applicant :- Rajeev Sawhney

Counsel for Opposite Party :- G.A.

Hon'ble Gajendra Kumar,J.

1. Heard learned counsel for the applicant and learned AGA for the State.

2. The present application u/s 482 Cr.P.C. has been filed by the applicant with the prayer to quash the summoning order dated 14.08.2023 as well as the entire proceedings of Complaint Case No.48560 of 2023, under Sections 323, 504, 506 IPC, Police Station Kidwai Nagar, District Kanpur Nagar.

3. Learned counsel for the applicant submits that with the allegation of loot and fraudulently transferring the land to other person regarding which, there is registered agreement to sale in favour of the applicant, the complaint case was filed and due inquiry was conducted by the concerned Magistrate and statements of the complainant under Section 200 Cr.P.C. as well as the witnesses under Section 202 Cr.P.C. were recorded, in which complainant and witnesses have supported the prosecution case as set up in the complaint but the summoning court without going through the matter properly in a mechanical way without application of mind has summoned the applicant only for the offence under Sections 323, 504, 506 IPC, which is against the material available on the record. The manner in which the proceeding has been carried out is nothing but an abuse of process

of Court.

4. On the other hand, learned AGA has opposed the prayer and submitted that due inquiry has been made in the complaint case and on the basis of material collected during inquiry offence under Sections 323, 504, 506 IPC was found prima facie by the concerned Magistrate and the accused persons were summoned.

5. Keeping in view the contention and submission made by the learned counsel for the parties, it is apparent from the impugned order as well as the record that the allegations have been made in the complaint with regard to the loot and fraudulently transferring the land in favour of the some other persons while the applicant has in his favour registered agreement to sale. During inquiry, learned Magistrate by way of statement made by the complainant as well as the statement under Sections 200 & 202 Cr.P.C. respectively after exercising discretion in a judicious way has found prima facie case on the basis of material thus collected to summon the accused persons only for the offence under Sections 323, 504, 506 IPC. The argument made by the learned counsel for the applicant are disputed fact of the case, which cannot be considered at this stage. Hence, the prayer for quashment of summoning order made by the applicant is refused.

6. With the aforesaid observations, the present application u/s 482 Cr.P.C. is **dismissed**.

Order Date :- 13.10.2023
Sanjeet