

Court No. - 91

Case :- APPLICATION U/S 482 No. - 38230 of 2023

Applicant :- Mohd. Aman

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

Counsel for Applicant :- Vipul Pandey

Counsel for Opposite Party :- G.A.

Hon'ble Gajendra Kumar,J.

1. Heard learned counsel for the applicants, learned A.G.A. for the State and perused the record.

2. This application under Section 482 Cr.P.C. has been filed by the applicant with the prayer to quash the charge sheet dated 30.05.2023 as well as entire proceedings of Case No. 113930 of 2015, (State v. Pradeep & Anr) arising out of Case Crime No. 15 of 2023, under Sections 406, 420 I.P.C., Police Station Gwaltoli, District Kanpur Nagar, pending in the court of M.M. VII, Kanpur Nagar, and further prayer to stay the further proceedings of the aforesaid case has been made.

3. It is submitted by learned counsel for the applicant that there has been no entrustment of any car with the applicant and no offence under section 406 IPC is made out. It is further submitted that there has been no inducement on the part of the applicant to deceive or defraud the opposite party no.2. The offence under section 420 IPC is also not made out but the opposite party no.2 with the false and frivolous allegations has lodged an FIR against the applicant and one other accused. The Investigating Officer without going into the controversy involved in the case has submitted charge sheet in a perfunctory manner on which the learned Magistrate has taken cognizance in a mechanical way

without recording any satisfaction as per what material on the basis of which the offence against the applicant is made out and the cognizance is being taken.

4. Learned A.G.A. opposed the prayer but did not dispute the aforesaid facts.

5. In view of the submissions made by learned counsel for the rival parties, from the allegations made in the FIR and the material/ evidence collected during the investigation by the Investigating Officer and the order dated 10.7.2023 by which the Magistrate concerned has taken cognizance is being passed without application of mind and there is no narration of facts given in the order as on what evidence/ material offence under section 406, 420 IPC is made out which are contradictory to each other. Thus, the order impugned dated 30.05.2023 is hereby set-aside. The matter is remanded back to the trial court concerned to decide the matter afresh in accordance with law, within a period of two months from the date of production of certified copy of this order.

6. With the aforesaid observations, the application stands **disposed of**.

Order Date :- 21.11.2023

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