

Court No. - 91

Case :- APPLICATION U/S 482 No. - 38763 of 2023

Applicant :- Shivkumar

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

Counsel for Applicant :- Raghvendra Kumar Mishra

Counsel for Opposite Party :- G.A.

Hon'ble Gajendra Kumar,J.

1. Heard learned counsel for the applicant, learned A.G.A. for the State- opposite party 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 order dated 09.08.2023 passed by ACJM Court No. 1, Mathura in Misc. Case No. 2160 of 2023 u/s 156(3) (Shivkumar Vs. Ankit Agrawal and others) Police Station- Raya District- Mathura.

3. It is submitted by learned counsel for the applicant that an application was moved by the applicant before the Additional Chief Judicial Magistrate, Mathura under Section 156 (3) Cr.P.C. with the allegation that there has been threat extended to the applicant to viral a message maligning the reputation of the applicant and the same has already been circulating in the media. Learned Magistrate without going into the fact that the evidence can only be collected by I.O. after registration of the F.I.R., has rejected the application of the applicant under Section 156 (3) Cr.P.C. assigning the ground that as all the facts are within the knowledge of the applicant, there is no need for registration of the F.I.R. and the application under Section 156(3) Cr.P.C. of the applicant has been treated as a complaint case.

4. The main submission and contention of learned counsel for the applicant is the fact that as to who has circulated the post maligning the reputation of the applicant is still to be examined and it can only be collected by the Investigating Officer but the same has not been considered and prayer has been made before this Court to set aside the same order.

5. Learned A.G.A. opposed the prayer that there is no illegality, perversity and impropriety in the order. The order has been passed after considering all facts and circumstances of the case.

6. In view of the above submissions and contention made by counsel for the rival parties, the learned Magistrate has exercised the power given to him in a judicious way after considering all the aspects of the case citing the case laws **Rambabu Gupta and another Vs. State of U.P. and another 2001 (43) SCC 50, Sukhwasi Vs. State of U.P. 2007 (59) SCC 739 and Shivkumar Mishra Vs. Additional Sessions Judge 9 Gonda 2013 (4) ALJ (NOC) 288**. There is no illegality and perversity in the impugned order.

7. In any view of the matter, it is found that there is no such glaring abuse of court's process which may justify to invoke its inherent jurisdiction provided under section 482 Cr.P.C. to interference in the same. In view of above, the prayer for quashing the impugned order is refused.

8. The present application under Section 482 is devoid of merit and is accordingly **dismissed**.

Order Date :- 2.12.2023

Nitika Sri.