

Court No. - 89

Case :- APPLICATION U/S 482 No. - 39503 of 2023

Applicant :- Kaushal Kishore Bansal And Another

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

Counsel for Applicant :- Amit Saxena, Priya Saxena, Vivek Kumar Singh

Counsel for Opposite Party :- G.A.

Hon'ble Deepak Verma, J.

1. Heard Sri Vivek Kumar Singh, learned counsel for the applicants, Sri Vishwa Deepak Mishra, learned AGA for the State and perused the record.

2. The present 482 Cr.P.C. application has been filed to quash the impugned order dated 31.05.2023 passed by Addl. Sessions Judge, Court No.8, Budaun in Criminal Revision No.181 of 2022 and impugned order dated 21.07.2022 passed by CJM, Budaun in Complaint Case No.330 of 2018, under Sections 420, 406 I.P.C., P.S. Ujhani, District Budaun.

3. Counsel for the applicants submits that opposite party No.2, who moved application under Section 156(3) Cr.P.C. alleging therein that opposite party No.2 is proprietor of Krishna Trading Company had to receive the millets and papers relating to item loaded in the truck and truck driver handed over the goods to the applicants and received in the name of complainant but after some time complainant got knowledge that goods has not received by the company, then instant application has been moved. Learned Magistrate treated the application under Section 156(3) Cr.P.C. as complaint and recorded the statement under Sections 200 and 202 Cr.P.C. and summoned the applicants. Applicants challenged the summoning order by filing revision and Revisional Court vide order dated 31.05.2023 rejected the revision. Dispute between the parties are civil in nature which pertains to business transaction. Summoning order has been passed without application of judicial mind and in arbitrary manner rejected the revision. No *prima facie* case is made out. Statement recorded under Sections 200 and 202 Cr.P.C. also

not supported the contents of the complaint and all proceedings against the applicants is abuse of process of court and is liable to be set aside.

4. *Per contra*, learned A.G.A. opposed the submission of applicants' counsel and submits that the impugned order dated 31.05.2023 passed by trial court is just and proper and do not suffer from any illegality or infirmity and no interference is warranted, at this stage. .

5. Considering the statement made by applicant's counsel and perused the record, it is evident that at this stage documents cannot be examined and in view of the above, *prima facie*, case is made out against the applicants. No interference is warranted, at this stage.

6. In view of the above, in the light of judgment of the Apex Court in the matters of **R.P. Kapur Vs. State of Punjab, A.I.R. 1960 S.C. 866, State of Haryana Vs. Bhajan Lal, 1992 SCC (Cr.) 426, State of Bihar Vs. P.P.Sharma, 1992 SCC (Cr.) 192 and lastly Zandu Pharmaceutical Works Ltd. Vs. Mohd. Saraful Haq and another (Para-10) 2005 SCC (Cr.) 283**, no ground for quashing the proceedings of the aforesaid case, is made out which may call for any interference by this Court in exercise of its inherent power under Section 482 Cr.P.C. as the same do not suffer from any illegality or infirmity.

7. The present application under Section 482 Cr.P.C. lacks merit and is, accordingly, **dismissed**.

Order Date :- 28.10.2023

Nitin Verma