

**Court No. - 92**

**Case :-** APPLICATION U/S 482 No. - 40021 of 2023

**Applicant :-** Mahesh Bansal

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

**Counsel for Applicant :-** Sanjeev Kumar Rai

**Counsel for Opposite Party :-** G.A.

**Hon'ble Anish Kumar Gupta,J.**

1. Heard Shri Sanjeev Kumar Rai, learned counsel for the applicant and Shri Arvind Kumar, learned A.G.A. for the State.
2. The instant application has been filed praying for setting aside the order dated 10.4.2023 passed by the A.C.J.M. Court No. 1, Muzaffar Nagar in Misc. Case No. 139/11 of 2023 (Mahesh Vs. Ved Prakash) under section 156(3) Cr.P.C. police station Nai Mandi District Muzaffar Nagar and also to set aside the order dated 19.8.2023 passed by the Additional District and Sessions Judge Court No. 15, Muzaffar Nagar in Criminal Revision No. 142 of 2023 (Mahesh Vs. State of U.P. and others).
3. Learned counsel for the applicant submits that the applicant herein has entered into a deal with the opposite party no. 2 for purchase of a Truck No. UP 12 AT 2135 and had paid some amount to the opposite party no. 2. Subsequently he realized that the said Truck was hypothecated to some financial institution then he cancelled the deal and asked for the refund of the amount from the opposite party no. 2. Thereafter the opposite party no. 2 handed over a cheque to the applicant here which was dishonoured for which the applicant has filed a case No. No. 8590 of 2020 under section 138 of N.I. Act against the opposite party no. 2, which is pending trial. Learned counsel for the applicants further submits that in pursuance of the said case on 4.12.2021 the opposite party no. 2 was sent to jail. It is also submitted that subsequently the applicant came to know that on 9.12.2021 the opposite party no. 2 had transferred the said Truck in favour of some other person by appearing before the A.R.T.O. office on 9.12.2021 on which date he was in jail in pursuance of the order dated 4.12.201 in the cheque dishonour case, therefore, he has filed this complaint under section 156(3) Cr.P.C. for registration of F.I.R. against the opposite party no. 2. The said application under section 156(3) Cr.P.C. filed by the applicant herein was dismissed by the learned Magistrate vide order dated 10.4.2023 relying upon

the report of Assistant Regional Transport Officer, Muzaffar Nagar according to which the opposite party no. 2 had appeared in his office on 1.12.2021 and signed all the documents for issuance of NOC and subsequently the said vehicle was physically verified on 9.12.2021 and all other formalities were completed. On basis of such report the learned Magistrate has recorded the finding that no offence is made out against the opposite party no. 3, therefore, the said application was rejected. Against the said order dated 4.12.2021 rejecting the application of the applicant under section 156(3) Cr.P.C. the applicant has filed a criminal revision No. 143 of 2023, which has also been dismissed by order dated 19.8.2023, therefore, the applicant has filed the instant application challenging both the orders. Learned counsel for the applicant submits that since his application made out prima facie cognizable offence, therefore, the Magistrate was not required to conduct an enquiry and only a direction was required to be issued for registration of the F.I.R. against the opposite party no. 2.

4. On the other hand, learned A.G.A. for the State submits that the deal of the opposite party no. 2 with the applicant was over by handing over the cheque of the same paid by the applicant. Subsequent thereto in the sale to some other person the applicants herein has no locus to challenge the subsequent deal. So far as the appearance of the opposite party no. 2 on 9.12.2021 as has been alleged in the application under section 482 Cr.P.C. moved by the applicant, it is found that in the report of the Assistant Regional Transport Officer, Muzaffar Nagar it has been categorically stated that the opposite party no. 2 had appeared only on 1.12.2021 in his office and has signed all the relevant documents required for transfer of the Truck in favour of some other person and the said Truck was presented for physical verification on 9.12.2021 by the person in whose favour the Truck was sold on 9.12.2021. The said Truck was physically verified and thereafter transferred and further proceedings were conducted. Therefore, the learned Magistrate has rightly rejected the application moved by the applicant under section 156(3) Cr.P.C. and no interference is required by this Court.

5. In view thereof, in the considered opinion of this court there is no illegality in the impugned orders passed by the courts below and the instant application is devoid of merit and is hereby **dismissed**.

**Order Date :- 4.12.2023**

o.k.