

Court No. - 90

Case :- APPLICATION U/S 482 No. - 40433 of 2023

Applicant :- Gaurav Rai

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

Counsel for Applicant :- Surendra Kumar Tripathi

Counsel for Opposite Party :- G.A.

Hon'ble Dinesh Pathak,J.

1. Heard learned counsel for the applicant, learned AGA and perused the record.

2. The present applicant has invoked the inherent power of this Court under Section 482 CrPC beseeching the quashing of cognizance/summoning order dated 1.10.2020 as well as entire criminal proceeding of Complaint Case No. 216 of 2020 (Himanshu Gahlot Vs. Gaurav Rai), under Sections 138 N.I. Act, Police Station New Agra, District Agra pending before Additional Court No. 2, Agra/court concerned.

3. Opposite Party No. 2 has moved the complaint dated 26.2.2020 with an averment that the accused (applicant herein) has borrowed Rs. 75,000/- from him and in lieu thereof, he has furnished cheque No. 063101 dated 21.1.2020 amounting Rs. 75,000/-, however, when the aforesaid cheque was presented before the drawee bank, same has been bounced with an endorsement 'for want of sufficient fund'. Having considered the contents of the complaint and the documents filed along with the complainant, learned Magistrate has issued process against the accused under Section 138 of NI Act. It has been submitted that the present applicant is ready and willing to reach a compromise with the complainant, therefore, instant matter may be referred for mediation to explore the possibility of settlement.

4. In this conspectus, as above, no useful purpose would be served to keep this matter pending, therefore, this Court deems it appropriate to finally dispose of the present application, without making any observation on the merits of the case as mentioned in the present application, with a direction to present applicant to approach before the court concerned by moving an appropriate application in the light of the ratio decided by Hon'ble Supreme Court in the case of **Damodar S. Prabhu Vs. Sayed Babalal H.**

reported in 2010 (5) SCC 663 within a period of two weeks from the today. In case, aforesaid application is filed, learned court concerned shall decide the same within a period of three weeks thereafter.

5. For a period of five weeks or till the decision is taken on the application filed on behalf of the present applicant, as observed above, whichever is earlier, no coercive action shall be taken against the present applicant in the aforementioned case.

6. With the aforesaid direction, present writ petition is disposed of.

Order Date :- 2.11.2023

vinay