

Court No. - 86

Case :- APPLICATION U/S 482 No. - 40908 of 2023

Applicant :- Amanur Rehman

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

Counsel for Applicant :- Deepak Singh

Counsel for Opposite Party :- G.A.

Hon'ble Rajiv Gupta,J.

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

2. The instant application u/s 482 Cr.P.C. has been filed with the prayer to quash charge-sheet no.97 of 2023 dated 05.07.2023 and cognizance/summoning order dated 27.07.2023 as well as entire proceedings of Case No. 118791 of 2023 (State Vs. Amanur Rehman), arising out of Case Crime No.50 of 2023, under Sections 504, 506, 341 and 386 IPC, P.S. Kotwali, District Kanpur Nagar, pending in the court of Chief Metropolitan Magistrate, Kanpur Nagar.

3. As per the allegations made in the First Information Report, it is alleged that on 23.01.2023, the date of incident, opposite party no.2 had reached the court premises for doing pairvi in Case No. 969 of 2014 (Mohd. Irfan Vs. Amanur Rahman), under Section 138 of the Negotiable Instruments Act, pending in the court of A.C.J.M.-V, Kanpur Nagar, which was instituted against one history sheeter criminal Pappu Smart and the applicant Amanur Rehman. It is further alleged that after doing pairvi in the said case, when opposite party no.2 had left the court premises, the applicant Amanur Rehman along with his two accomplices stopped him and threatened him to stop doing pairvi in the said case, else he would be done to death and further asked him to pay a sum of Rs.2,00,000/- being the amount spent in the pairvi of the said case along with interest within a week, else he would not remain alive and tried to kidnap him. On raising alarm, he was somehow rescued by the counsels

present there. On the basis of the said allegations, the instant FIR was lodged and the police after concluding the investigation has submitted the charge-sheet against the applicant, on the basis of which, the applicant has been summoned vide impugned order dated 27.07.2023.

4. Learned counsel for the applicant has submitted that from the perusal of the allegations made in the FIR and the material collected during the course of investigation, no offence is disclosed against the applicant and the present case has been instituted with a malafide intention for the purpose of harassment. He has pointed out certain documents and statements in support of his contention, as such, impugned charge sheet, cognizance/summoning order as well as entire proceedings be quashed.

5. Learned counsel for the applicant has next submitted that during the course of investigation the police have recorded the statements of only two witnesses under Section 161 Cr.P.C. and the investigation has not been carried out in a fair and impartial manner. He has further submitted that there is no CCTV footage of the incident in question and there is delay in lodging the said FIR, as such, the entire proceedings be quashed.

6. Per contra, learned AGA has vehemently opposed the said prayer and has submitted that from the perusal of the allegations made in the FIR and the material collected during the course of investigation, prima facie offence is clearly made out against the applicant and as such, impugned charge sheet, cognizance order/summoning as well as entire proceedings cannot be quashed.

7. Learned AGA has next drawn the attention of this Court to the statement of the victim recorded during the course of investigation, who has reiterated the prosecution story and the police after concluding the investigation has submitted the charge-sheet against the applicant on the basis of which, learned Magistrate has taken cognizance. He has further submitted that the delay in lodging the FIR has explicitly been explained in the FIR itself, as such, impugned charge-sheet, cognizance/summoning order as well as entire proceedings cannot be quashed.

8. From the perusal of the material on record and looking into the facts of the case, at this stage, it cannot be said that

no offence is made out against the applicant. All the submissions made at the bar relate to the disputed questions of fact, which cannot be adjudicated upon by this Court under Section 482 Cr.P.C.

9. At this stage, only prima facie case is to be seen in the light of the law laid down by the Supreme Court in the cases 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***. The disputed defence of the accused cannot be considered at this stage.

10. Having considered the rival submissions made by the parties and taking into consideration the entire material available on record, prima facie offence is clearly made out against the applicant and as such, impugned charge sheet, cognizance/summoning order as well as entire proceedings cannot be quashed.

11. In view of the foregoing discussion, I am of the considered view that no ground for interference at this stage in exercise of power u/s 482 Cr.P.C. is made out to quash the proceedings. The impugned order dated 27.07.2023, based on the charge-sheet is just, proper and legal and do not call for any interference at this Stage.

12. The present application u/s 482 Cr.P.C. is devoid of merit and is accordingly dismissed.

Order Date :- 5.12.2023

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