

Court No. - 91

Case :- APPLICATION U/S 482 No. - 41957 of 2023

Applicant :- Jitin Gupta

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

Counsel for Applicant :- Jitendra Kumar Mishra

Counsel for Opposite Party :- G.A.,Baleshwar Chaturvedi

Hon'ble Gajendra Kumar,J.

Heard learned counsel for the applicant, learned A.G.A. for the State and perused the record.

The present application has been filed by the applicant under Section 482 Cr.P.C. with the prayer to quash the N.B.W. order dated 28.08.2023, Charge sheet dated 29.11.2018 as well as cognizance/summoning order dated 17.2.2022 as well as entire criminal proceeding of Case No.905 of 2022 (State vs. Jitin Gupta) arising out of Case Crime No.1128 of 2018, under Section 135 of Indian Electricity Act (Amendment) 2003, Police Station Farrukhabad Kotwali, District Farrukhabad.

It is submitted by learned counsel for the applicant that as per FIR lodged by opposite party no.2 occurrence of the offence is dated 17.10.2018 and after completing the investigation I.O. has submitted charge sheet on 29.11.2018 on which the court took cognizance, vide order dated 17.2.2022, which means that cognizance was taken in this case on 17.2.2022, which is beyond the period as stipulated u/s 468C Cr.P.C. which is as under :-

"468 (c) Cr.P.C. three years, if the offence is punishable with imprisonment for term exceeding one year but not exceeding three years."

As the offence u/s 135 of Indian Electricity Act (Amendment) 2003 is punishable with imprisonment up to three years, the cognizance order is illegal and the entire criminal proceeding is nothing but an abuse of process of court.

Learned counsel for the opposite party no.2 opposed the prayer but could not dispute the aforesaid fact.

In view of the above, the order of cognizance is time barred, which is not sustainable in the eyes of law and the entire criminal proceeding is quashed.

Order Date :- 23.11.2023 m.a.