

Court No. - 91

Case :- APPLICATION U/S 482 No. - 40930 of 2023

Applicant :- Ramjanak

Opposite Party :- State Of U.P. . And Another

Counsel for Applicant :- Adarsh Shukla

Counsel for Opposite Party :- G.A.

Hon'ble Gajendra Kumar,J.

Heard learned counsel for applicant and the learned A.G.A. and perused the material available on record.

This application under Section 482 Cr.P.C. has been filed for quashing the order dated 5.9.2023, passed by C.J.M., Basti in criminal misc. case no.1313 of 2023, misc.case no.381/12/2023 (Ramjanak vs. Sukhram), under section 156 (3) Cr.P.C., P.S. Nagar, District Basti.

Learned counsel for the applicant has submitted that application u/s 156 (3) Cr.P.C. was moved by the applicant with the allegation of theft of jewellery of Rs.2,20,000/-. He further submits that learned Magistrate without considering the fact that the matter requires investigation has passed the order and treated the application u/s 156 (3) Cr.P.C. as a complaint case. He next submits that the impugned order dated 5.9.2023 is nothing but is an abuse of process of law, therefore, the impugned order as well as entire criminal proceeding in the aforesaid case is liable to be set aside.

Per contra, learned AGA opposed the prayer for quashing the proceeding and submitted that learned Magistrate has a discretion to pass an order whether directing the S.H.O. concerned for registration of an FIR or treat the application u/s 156 (3) Cr.P.C. as a complaint case though the order has been passed by the concerned Magistrate in his discretion is good in law and fact. He further submits that there is no ground for interference in the same.

In view of the submissions and contention made by learned counsel for the parties and from the perusal of the record, it reveals that learned Magistrate by passing the order dated 5.9.2023, has considered this aspect of the matter and came to the conclusion that in view of the case law as laid down in the case of *Sukhwasi*

Vs. State of U.P. and others 2007 (59) ACC 739, has treated the application u/s 156 (3) Cr.P.C. as a complaint case.

In view of the above facts and circumstance of the case, there is no perversity or illegality in the impugned order and there is no ground for invoking inherent power under Section 482 Cr.P.C. of the Court to interfere in this case.

According, the present application is rejected.

Order Date :- 17.11.2023

m.a.