

Court No. - 93

Case :- APPLICATION U/S 482 No. - 43259 of 2023

Applicant :- Rajendra

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

Counsel for Applicant :- Gaurav Tiwari, Sanjay Chaturvedi, Santosh Kumar Tripathi

Counsel for Opposite Party :- G.A.

Hon'ble Manoj Bajaj, J.

Applicant has approached this Court through this application under Section 482 Code of Criminal Procedure for quashing of the complaint case number 27387 of 2022 (Nitin Kumar Vs. Rajendra Singh Tour and Travels through its Proprietor), under Section 138 Negotiable Instrument Act, 1881, Police Station- Civil Lines, District Muzaffar Nagar.

Learned counsel has argued that the cheque in question allegedly issued by the applicant in favour of the complainant was infact misused, as the said cheque was lost in the year 2020. He submits that in this regard, an information was given to the bank as well as the police officer, therefore, it is clear that the prosecution of the applicant is nothing, but abuse of the process of law. He prays that the impugned complaint and the proceedings arising out of it be quashed.

Upon hearing the learned counsel and considering his submissions, this Court finds that after examining the complaint and the pre- summoning evidence

adduced by the complainant, the trial court found a *prima facie* case for issuance of process against the applicant. Above all, neither the summoning order has been placed on record, nor it has been challenged, therefore, the challenge to complaint alone is not maintainable.

Further, the instrument in question carries presumption that the applicant had issued it towards discharge of his liability, therefore, the grounds raised by the applicant in this application are not worth acceptance at this stage, as it is to be established by adducing the defence.

Resultantly, no case is made out for exercise of inherent powers under Section 482 Code of Criminal Procedure.

This application is dismissed.

Order Date :- 28.11.2023

Raj