

Court No. - 93

Case :- APPLICATION U/S 482 No. - 42675 of 2023

Applicant :- Rajesh Kumar Agarwal

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

Counsel for Applicant :- Rishabh Agarwal

Counsel for Opposite Party :- G.A.

Hon'ble Manoj Bajaj,J.

The applicant-accused has filed this application under Section 482 Code of Criminal Procedure seeking quashing of Complaint Case No. 260 of 2021, titled Mukesh Kumar Bhargava vs. Rajesh Kumar Agarwal instituted by complainant-opposite party no. 2, under Section 138 Negotiable Instruments Act, 1881 and the entire proceedings arising out of it.

Learned counsel for the applicant submits that as per the allegations in the complaint made by opposite party no. 2 he had advanced a loan of Rs. 57 lacs to the applicant on a promise that the same would be returned back to the complainant soon. As per the averments the complainant had given Rs. 20 lacs from his own account, whereas the remaining amount was arranged by him from his relatives and friends. Learned counsel has pointed out that the trial court had also directed to deposit 20% of the cheque amount with the complainant under Section 143(A) N.I. Act on 21.10.2023 and the said order was challenged by the applicant through criminal revision bearing no. 699 of 2023. According to him though the revision is pending but no stay order was granted.

Learned counsel for the applicant argued that applicant had taken a long term loan from the complainant amounting to Rs. 20 lacs through cheques dated 28.7.2017 and 11.8.2017 (Rs. 10 lacs each) and at that stage blank cheque was given by the accused as a security. He further submits that by misusing those blank cheques the complainant has filed a complaint bearing no. 260 of 2021 for dishonor of cheque amounting to Rs. 57 lacs and pursuant to the summoning order dated 6.8.2021 the

applicant is facing this prosecution.

Learned counsel for the applicant submits that as per complaint the amount was arranged by the complainant from his sister-in-law and other relatives but the complaints by those persons filed under Section 138 N.I. Act against the applicant are also pending, therefore, according to learned counsel the prosecution of the accused is bad in law and he prays that the impugned complaint and the summoning order be quashed.

During the course of hearing it is not disputed by learned counsel for the applicant that the complaint filed by the opposite party no. 2 and others are relating to different cheques. Further learned counsel has fairly stated that in the subject complaint filed by opposite party no. 2, even defence evidence has been adduced.

After hearing learned counsel for the applicant, considering the submissions, this Court finds that the trial in the impugned complaint is at an advanced stage and the evidence of the applicant has already been adduced.

Therefore, at this stage, it will not be appropriate for this Court to exercise the inherent powers under Section 482 Cr.P.C. as the defence of the applicant based on the other complaints filed by the relatives of opposite party no. 2 would be examined by the trial court.

Thus, without expressing any opinion on the merits of the case, the application is **dismissed**.

Order Date :- 22.11.2023

Faridul