

Court No. - 93

Case :- APPLICATION U/S 482 No. - 44010 of 2023

Applicant :- Gaurav Rai Gupta

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

Counsel for Applicant :- Sujan Singh

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 proceedings of Criminal Case No.13346 of 2013, titled State Vs. Gaurav Rai, arising out of case crime no.541 of 2013, under Sections 406, 420 I.P.C., Police Station New Agra, District Agra, pending in the court of Special Chief Judicial Magistrate, Agra.

Learned counsel for the applicant has argued that the complainant falsely implicated the accused-applicant with the allegations that he gave Rs.3,00,000/- to the applicant on his promise of providing job to the complainant's son, but the applicant failed to keep his word, therefore, in order to return the money, he had issued two cheques bearing numbers 453027 and 310117 (Annexure No.SA-4) and on presentation of the cheques, the same were dishonoured. He submits that after dishonour of the cheques, no complaint under Section 138 Negotiable Instrument Act, 1881 was filed but relying upon the same instruments, the

complainant has falsely implicated the applicant. He submits that this is nothing but an abuse of the process of the law, therefore, the proceedings of the above criminal case deserves to be quashed.

After hearing the learned counsel and considering his submission, this Court finds that the case of the prosecution is based upon documentary evidence and after investigation, the final report has been filed. Concededly, the final report is yet to be considered by the trial court, therefore, at this stage, this Court is not inclined to entertain the petition after a gap of ten years from the filing of the charge-sheet and passing of the cognizance order as the issues and grounds raised in this application can be raised by the applicant at the stage of consideration of the final report.

Besides, the stand of the applicant that he had after dishonour of the cheques, paid the money in cash to the complainant, is not supported with any evidence, therefore, the sole plea raised for quashing cannot be accepted as it would require evidence.

At this stage, learned counsel has argued that the cognizance order is based upon a printed proforma, is not sustainable, is also without any merit as concededly the case is based upon police report and also the order dated 17.12.2013 passed by Chief Judicial Magistrate, Agra.

Thus, without meaning any expression of opinion on

the merits of this case, this application is dismissed.

Order Date :- 1.12.2023

Raj