

Court No. - 93

Case :- APPLICATION U/S 482 No. - 44191 of 2023

Applicant :- Sanni

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

Counsel for Applicant :- Rajesh Pachauri

Counsel for Opposite Party :- G.A.

Hon'ble Manoj Bajaj,J.

Applicant being accused has approached this Court through this application under Section 482 Code of Criminal Procedure seeking quashing of the chargesheet dated 17.3.2023 and the cognizance order dated 11.8.2023 passed by Civil Judge (J.D.)/Judicial Magistrate, Chhata, Mathura, as well as entire proceedings of Case No. 3148 of 2023, titled State vs. Gaurav Sharma and others), arising from Case Crime No. 385 of 2022, under Sections 420, 406, 504 and 506 I.P.C., P.S. Chhata, district-Mathura.

Learned counsel for the applicant submits that as per allegations made by the complainant he entered into a deal with Gaurav Sharma for purchase of a vehicle and admittedly, the amount of Rs. 2.5 lacs was paid by him to the said person on two different dates, therefore finding no involvement of the applicant in the alleged crime he was exonerated through chargesheet submitted by the police under Section 173(2) Cr.P.C. on 10.12.2022. He further submits that upon grievance raised by the complainant before the higher police officer, the further investigation was ordered, whereupon the supplementary chargesheet under Section 173(8) Cr.P.C. was filed against the applicant, and the Magistrate has also passed the cognizance order dated 11.8.2023 against him.

Learned counsel prays that the supplementary chargesheet filed against the applicant is not a voluntarily conclusion of the Investigating Officer, but is a result of interference of Dy.S.P., therefore supplementary chargesheet be quashed in the interest of justice.

During the course of hearing it is not disputed by learned counsel for the applicant that the conflicting reports submitted by the Investigating Officer are pending consideration before the court of competent jurisdiction, as admittedly no charge has been framed so far against the applicant.

Upon hearing the learned counsel and considering his submissions, this Court is of the view that as the final report is yet to be examined by the Magistrate, therefore, at this stage, it would not be appropriate for this Court to exercise inherent powers under Section 482 CrPC. Here, it will be useful to refer the decision of Hon'ble Supreme Court delivered in ***Dharmatma Singh vs. Harminder Singh & Ors. report in Criminal Appeal No.1126 of 2011 (3) RCR Criminal 38*** wherein the Hon'ble Supreme Court has observed that if a party can avail alternative remedy according to the provisions of Code of Criminal Procedure, in that eventuality the inherent powers under Section 482 Cr.P.C. cannot be exercised.

However, it is open to the applicant to raise all these issues and grounds before the Magistrate at an appropriate stage.

With these observations, the petition is disposed of.

Order Date :- 4.12.2023

Faridul