

**Court No. - 93**

**Case :-** APPLICATION U/S 482 No. - 45240 of 2023

**Applicant :-** Sukhsagar @ Ganpat Ram

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

**Counsel for Applicant :-** Vishal Tandon

**Counsel for Opposite Party :-** G.A.

**Hon'ble Manoj Bajaj,J.**

Applicant-Sukhsagar @ Ganpat Ram has approached this Court through this application under Section 482 Code of Criminal Procedure for quashing the impugned order dated 06.07.2023 passed by Special Judge, POCSO Court No.3/Additional District and Sessions Judge, Meerut in Session Trial No.1729 of 2022, titled State Vs. Sant Sukhsaar @ Ganpat and others, under Sections 376, 511 and 506 I.P.C. and 7/8 Protection of Children from Sexual Offence Act, 2012, Police Station Kankarkheda, District Meerut, whereby his application under Section 91 Code of Criminal Procedure has been dismissed.

Learned counsel for the applicant, inter-alia, submits that the case against the applicant lodged by the complainant is false, which is in retaliation to his money dispute with the brother of the prosecutrix. He submits that the said money dispute stood settled and an affidavit in this regard was sworn, which is necessary to prove the applicant's defence. Similarly, the call detail recording relating to the Mobile No.8445294121 belonging to the brother of the applicant, to prove the settlement of the money dispute, on the basis of the conversation with the brother of the prosecutrix is also necessary, therefore, the applicant had filed an application under Section 91 Cr.P.C., which has been dismissed through the impugned order dated 06.07.2023. He submits that the trial court has not carefully examined the material on record, particularly, the relevance of the material sought to be produced through the application, committed an error or law in

dismissing the same. He prays that the impugned order be set aside and a direction be issued for production of the relevant material.

After hearing the learned counsel for the applicant and considering his submissions, this Court does not find any merit in this case as the alleged compromise relating to the settlement between brother of prosecutrix and the applicant is intended to be proved by way of an affidavit, which as per application of the applicant himself was jointly sworn. A perusal of the application submitted before the court further shows that it does not contain any averment that the said document is solely in possession of the brother of the prosecutrix, and no copy of the said affidavit is available with the applicant, therefore, the claim in this regard is misconceived, particularly when the said affidavit relied upon, is attached with the said application and is also part of the record.

While examining the second submission, relating to the call details record between the applicant's brother and the brother of the prosecutrix regarding the settlement, this Court finds that the same is not connected to the alleged accusation made by the prosecutrix against the applicant. Further, concededly it cannot be a part of investigation by police, in view of the nature of allegations made by the complainant. If, the accused is desirous to lead any defence evidence, then it is for him to adduce it at his own responsibility, and the court is not to collect the evidence on behalf of the accused. A perusal of the impugned order shows that the court has carefully examined the claim of the applicant in context with the stage of the trial and has rightly refused the prayer.

Resultantly, no case is made out for the exercise of inherent powers under Section 482 Cr.P.C., the application is dismissed.

**Order Date :- 12.12.2023**

R./