

Court No. - 12

Case :- APPLICATION U/S 482 No. - 1242 of 2012

Applicant :- Mukesh Kesarwani

Opposite Party :- The State Of U.P And Anr.

Counsel for Applicant :- Kr Veer Bhanu
Singh,A.M.Khan,F.A.Osmany

Counsel for Opposite Party :- Govt. Advocate

Hon'ble Rajeev Singh,J.

1. Present petition is listed in the cause list in the category of cases not to be adjourned.

2. Heard learned counsel for the petitioner, Mr. Nikhil Singh, learned AGA and perused the record.

3. Present petition has been filed with the following prayer:-

"To quash the impugned chargesheet No. 1/2009, dated 16.03.2009, in crime no.126 of 2008, under section 420. 467,468,506 I. P.C, P.S.Talkatora, pending in the court of A.G.J.M. III, Lucknow and also be pleased to quash the proceedings pending in the court of A.C.J.M.III vide case no. 265/2010, State Vs. Mukesh Kesharwani and fixed for 29.4.2012, contained in Annexure no.1 to this application."

4. Learned counsel for the applicant submitted that only with the intention to victimize the petitioner FIR of case in question was filed as there was some money dispute between the parties and all the due amount has already been paid by the petitioner to the private respondent even though the FIR of case in question was lodged and during the investigation all the evidences were provided to the Investigating Officer but the same were not taken into consideration and the chargesheet was filed in the most mechanical manner. He further submitted that in case the private respondent is aggrieved then she should file money suit before the competent Court, criminal proceedings is abuse of process of law. He also relied upon the decision of Hon'ble Apex Court in the case of **State of Haryana Vs. Bhajan Lal, 1992 SCC (Cr.) 426.**

5. Learned AGA opposed the prayer of the applicant and submitted that after investigation chargesheet has already been filed but he does not dispute this fact that there was some dispute related to violation of the agreement which was executed between the parties.

6. Considering submission of rival parties and going through the contents of petition as well as other relevant documents, merely on the basis of violation of some agreement between the parties criminal proceedings have been initiated, which is not permissible.

7. Therefore, in view of the above, the impugned chargesheet No. 1/2009, dated 16.03.2009, in crime no.126 of 2008, under section 420. 467,468,506 I. P.C, P.S.Talkatora, pending in the court of A.GJ.M. III, Lucknow as well as the entire proceedings of case no. 265/2010, State Vs. Mukesh Kesharwani are quashed. The present application is **allowed**.

8. Office is directed to send a copy of this order to the court concerned.

Order Date :- 5.12.2023

Vipul