

Court No. - 11

Case :- APPLICATION U/S 482 No. - 5976 of 2023

Applicant :- Ariz Abbas Managing Director, Lko.

Opposite Party :- The State Of U.P., Thru. The Secy. Home Deptt., Lko. And Another

Counsel for Applicant :- Rajendra Kumar Dubey

Counsel for Opposite Party :- G.A.

Hon'ble Dinesh Kumar Singh,J.

1. Heard learned counsel appearing for the accused-petitioner and learned Additional Government Advocate appearing for the State.
2. Present petition under Section 482 Cr.P.C. has been filed seeking quashing of the cognizance order dated 28.09.2019 arising out of case registered at Criminal No.108 of 2019 under Sections 420, 406, 504, 506 IPC, Police Station Chinhat, District Lucknow pending before the court of Additional Chief Judicial Magistrate-III, Lucknow vide Criminal Case No.77324 of 2019.
3. The FIR in question came to be registered on 04.02.2019 at Case Crime No.108 of 2019 under Sections 420, 406, 504, 506 IPC, Police Station Chinhat, District Lucknow. The police after investigating the offence has filed charge-sheet on 11.05.2019. The Court took cognizance and issued summons to the accused-petitioner to appear before the Court on 28.09.2019.
4. It appears that the complainant has also filed a case under Section 138 of the Negotiable Instruments Act bearing Case No.2897 of 2020.
5. Learned counsel appearing for the petitioner submits that the petitioner had paid every penny of the complainant and the FIR and the proceedings arising out of that as well as proceedings under the Negotiable Instruments Act, are nothing but a malafide exercise.
6. It is further submitted that the petitioner is falsely implicated in the case and the impugned proceedings are liable to be quashed.
7. Further submission on behalf of the petitioner is that two proceedings for the same cause of action have been undertaken, one under the FIR and another one under the provisions of Negotiable Instruments Act, which amounts to double jeopardy under Article 20(2) of the Constitution of India.

8. Offence under the Negotiable Instruments Act is a distinct offence. Cause of action arises under the Negotiable Instruments Act, if the instrument is dishonored for any reason. Therefore, I am not convinced that issue involved in the case is of double jeopardy. Police after investigating the offence has already filed charge-sheet for which cognizance has been taken by the competent court. In view thereof, I do not find any ground to interfere with the impugned proceedings. The petition is thus, ***dismissed***. The petitioner may appear on the date fixed before the trial court i.e. 28.06.2023 and may apply for bail which shall be considered expeditiously in accordance with law.

(Dinesh Kumar Singh, J.)

Order Date :- 19.6.2023
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