

Court No. - 28

Case :- APPLICATION U/S 482 No. - 9895 of 2023

Applicant :- Manoj Kumar

Opposite Party :- State Of U.P. Thru. Prin. Secy. Home Lko. And Another

Counsel for Applicant :- Devendra Pratap Singh, Ashok Kumar

Counsel for Opposite Party :- G.A.

Hon'ble Shree Prakash Singh, J.

Heard learned counsel for the applicant, learned A.G.A. for the State and perused the record.

Instant application has been filed with the prayer to quash the charge sheet No.174 of 2023 dated 24.4.2023 submitted in F.I.R. No. 0119 of 2021 under sections 409 IPC, Police Station- Kotwali Nagar, District- Sitapur as well as for quashing the summoning order dated 5.6.2023 passed by the Chief Judicial Magistrate, Sitapur, along with the entire criminal proceeding of Criminal Case No. 3494 of 2023 "State Versus Manoj Kumar" arising out of F.I.R. No. 0119 of 2021 under sections 409 IPC, Police Station- Kotwali Nagar, District- Sitapur, pending before the Chief Judicial Magistrate, Sitapur.

The learned counsel for the applicant submits there are certain discrepancies in lodging the FIR as well as filing of the charge-sheet and the order of summoning also assails illegality and infirmity and thus the impugned order is liable to be set-aside.

On the other hand, learned AGA for the State has vehemently opposed the contention aforesaid and submitted that there is no illegality and infirmity in the summoning order and the charge-sheet has been filed after thorough investigation in the matter and thus the submissions of the learned counsel for the applicant does not have any force.

After argument at length, learned counsel for the applicant submits that applicant may be given liberty to move discharge application before the court concerned and the court below may be directed to decide the same within stipulated period of time as may be fixed by this Court.

In view of the aforesaid submissions and looking to the facts of the case, the applicant is permitted to file an application of discharge within fifteen days before the court concerned and if such an application is filed, the same shall be decided within further four weeks, strictly in accordance with law.

It is observed that if there is any default on the part of applicant in moving the discharge application, interim protection granted by this Court shall not remain in force.

With the aforesaid observations, the application is **disposed of**.

Order Date :- 10.10.2023

Manoj K.