

Court No. - 12

Case :- APPLICATION U/S 482 No. - 10713 of 2023

Applicant :- Parmanand Mishra

Opposite Party :- State Of U.P. Thru. Prin. Secy. At Home Lko. And 3 Others

Counsel for Applicant :- I.M. Pandey Ist

Counsel for Opposite Party :- G.A.

Hon'ble Rajeev Singh,J.

1. Heard learned counsel for the applicant, learned AGA and perused the record.

2. Present application has been with following prayer:-

"(i) To quash the impugned the judgment/order dated 13.07.2023 passed by the Learned Court of Additional District and Session Judge/Special Judge P.O.C.S.O. (Protection of Children from Sexual Offence Act) - II Faizabad in Criminal Revision No. 68/2022- Parmanand Mishra Vs. State of U.P. along with the dismissal order dated 29.03.2022 passed by the learned Chief Judicial Magistrate-III Faizabad in Criminal Complaint No. 1785/2014, Parmanand Mishra vs. Dayaram Mishra and others, arising out of case crime number 349/07 under section 467, 468, 419, 420 and 471 I.P.C., Police Station Haidarganj, District Faizabad (Now Ayodhya).

(ii) To direct the Learned trial court/ learned Chief Judicial Magistrate-III Faizabad, to reconsider and decide the applicant's Complaint No. 1785/2014, Parmanand Mishra vs. Dayaram Mishra and others, arising out of case crime number 349/07 under section 467, 468, 419, 420 and 471 I.P.C., Police Station Haidarganj, District Faizabad (Now Ayodhya) along with the evidence produced under section 200 and 202 Cr.P.C. for summoning the accused persons to proceed the trial in accordance with law"

3. Learned counsel for the applicant submitted that at the time of alleged incident applicant was working as headmaster in Purv Madhyamik Vidyalaya Ariyashi Tarun, Faizabad (Ayodhya). In the year 1999 the respondent no.3 was working as Assistant Teacher and the salary of the applicant for the months of June and July 1999 and bonus for the year of 2001 was transferred under the order of the then Sahayak Basic Shiksha Adhikari Taruun Thana Haidar Ganj, District-

Faizabad/Ayodhya into the account of respondent no.3. But this controversy was not resolved by the Senior officers, as assurance was given by the private respondent no.3 that the amount will be handed over by him but it was not done and the complaint was also made at IGRS portal but no appropriate action was taken. Then application under Section 156 (3) was moved by the complainant and thereafter the FIR was lodged as case Crime No. 349 of 2007 under Sections 467, 468, 419, 420, 409 and 471 IPC P.S. Haidarganj, District- Faizabad/Ayodhya, after investigation final report was submitted. Protest petition was filed which was treated as complaint case and after recording the Statements under Sections 200 and 202 CrPC, the complaint was rejected by the learned Court below and thereafter revision was also filed but the same was also dismissed, therefore kind indulgence of this Court is necessary.

4. Learned AGA vehemently opposed the prayer of the applicant and submitted that there is no illegality in the order passed by the learned court below and therefore the Court below has rightly rejected the complaint case.

5. Considering submissions of rival parties and going through the contents of petition, as it is alleged by the applicant that his salary for the month of June and July, 1999 and bonus for the year of 2001 was transferred in the account of Kandhairam, the then Assistant teacher under the order of the then Sahayak Basic Shiksha Adhikari, and thereafter complaint was made but the issue could not be resolved. As the complaint has already been rejected by the learned Court below after detailed order, therefore this Court is of the view that no interference is required.

6. Accordingly, the petition is **dismissed**. However, it is open to the petitioner to move a comprehensive application before the Director U.P. Vigilance Establishment, Lucknow within a period of one month from today. In case any such application is moved then the Director Vigilance is directed to depute some officers for making inquiry on the allegations leveled by the applicant and take appropriate action without being prejudiced by the police report which was submitted after investigation.

Order Date :- 1.11.2023

Vipul