

Court No. - 12

Case :- CRIMINAL REVISION No. - 1187 of 2023

Revisionist :- Most Rev. John Augustine

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

Counsel for Revisionist :- Onkar Pandey, Asok Pande

Counsel for Opposite Party :- G.A.

Hon'ble Rajeev Singh, J.

1. Head Mr. Ashok Pandey, learned counsel for the revisionist and learned AGA and perused the record.

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

"To summon the record of the court below and after perusal of the same, pleased to set aside the order dated 05.08.2023 passed by Chief Judicial Magistrate Lucknow in Misc. Case no. 1018 of 2023 "Most Rev. John Augustine Vs. Rakesh Kumar Chettree and others", P.S.-Para, District-Lucknow, on the application filed by the revisionist under section 156(3) Cr.PC."

3. Learned counsel for the revisionist submitted that private respondent fabricated one affidavit and handed over to the investigating officer of Case Crime No. 276 of 2018 under Sections 420, 467, 468 and 471 I.P.C. at P.S.- Nawabad District-Jhansi and he also submitted that one petition under Section 482 CrPC bearing no.31212 of 2022 (**Rakesh Kumar Chettree and anr. Vs. State of UP and anr.**) was filed before the Hon'ble High Court at Allahabad for quashing of the criminal proceedings related to the aforesaid crime. An affidavit was given by Mr. Morris Edgar Dan (applicant no.2 in the aforesaid petition) enclosing one notarial affidavit dated 11.02.2021 which was allegedly signed by the applicant of the present case but the applicant never executed such affidavit and when this fact came in to the notice of the applicant then the applicant under Section 156 (3) CrPC was moved for lodging of the FIR but the learned Court below rejected the same. He also submitted that in case the application was rejected in relation to the direction to the Station House Officer for registering the FIR then that was to be treated as complaint case, therefore kind indulgence of this Court is necessary.

4. Learned AGA vehemently opposed the prayer of the applicant and submitted as it is evident from the record that the affidavit in petition under Section 482 CrPC bearing no.31212

of 2022 was given by Morris Edgar Dan, who was petitioner no.2 and in case any forged document was placed before the High Court at Allahabad then it was appropriate to the applicant that he ought to move an application before the Court concerned for purgery and it is also admitted by the revisionist that no such notary affidavit was found in the police record which was submitted by the investigating officer, therefore there is no illegality in the order passed by the learned Court below.

5. Considering submission of rival parties and going through the contents of petition, as the main allegation of the applicant in the complaint is that one forged notarial affidavit was prepared by the private respondent by making signature of the applicant and it was given to the investigating officer in the aforesaid crime at Jhansi and it is also admitted that the police report was already submitted but the said document was not found in the police report and in case any document was placed before the Hon'ble High Court at Allahabad by the private respondent or his companion then application was to be moved before the Court concerned, therefore learned court below has rightly rejected the case.

The present case is devoid of any merit and is accordingly **dismissed**.

Order Date :- 30.10.2023

Vipul