

RESERVED ON 3.11.2023

DELIVERED ON 9.11.2023

Court No. - 13

Case :- APPLICATION U/S 482 No. - 10512 of 2023

Applicant :- Angad Rai

Opposite Party :- State Of U.P Thru. Secy. Home Civil Sectr. Lko. And 4 Others

Counsel for Applicant :- Brijesh Singh Vishen, Saurabh Singh

Counsel for Opposite Party :- G.A.

Hon'ble Karunesh Singh Pawar, J.

1.The petition has been filed under Section 482 CrPC for a direction to District & Sessions Judge, Lucknow, District Lucknow (respondent No.2) and Chief Judicial Magistrate, Lucknow (respondent No.3) to search forged counter affidavit with vakalatnama in Case Crime No.494 of 2020 under sections 409, 420 I.P.C., P.S. Gomtinagar, district Lucknow as also set up enquiry in regard to missing of the said affidavit and vakalatnama.

2.Heard learned counsel for the petitioner and learned A.G.A. for the State.

3.Pleadings made in the petition show that one Deena Nath Sharma has lodged a first information report against Shine City company which was registered as Case Crime No.494 of 2020 (supra). As the petitioner and some other persons were not allotted plot nor the amount paid for the purpose was refunded, applications were given for lodging the first information report. The applications were clubbed with case crime No.494 of 2020(supra) vide Annnexure no.1.

It appears that on the basis of the counter affidavit allegedly filed along with vakalatnama of Mr. Satyendra Nath Srivastava, Advocate and the compromise, one Sandeep Pandey, accused was granted bail. On the parity of this bail, some other accused persons were also enlarged on bail. On coming to know of the bail having been granted to the accused persons, the petitioner applied for certified copy of the counter affidavit along with vakalatnama filed by Mr. Satyendra Nath Srivastava, Advocate, however, he was informed that the counter affidavit and the vakalatnama are missing from the record. The petitioner has approached the District Judge, Lucknow as also the Chief Judicial Magistrate, however it is submitted that no action has been taken and as such, the petitioner filed the present writ petition before this court with the prayer as aforesaid.

It further appears that the petitioner has straightway approached this Court invoking the inherent jurisdiction of this Court under Section 482 CrPC sans taking recourse to the alternative remedy available before the Administrative Judge. He has misused the provisions of section 482 CrPC. This provision bestows the High court with comprehensive discretionary powers to enforce any order necessary to serve justice. Alarming, the petitioner has used this section as a shortcut, attempting to evade the standard legal process.

4. It is a settled law that the inherent power provided under Section 482 CrPC to this Court should be exercised sparingly and in rare instances to prevent miscarriages of justice. In the case in hand, the petitioner has sought a direction

to the District Judge to search the alleged forged counter affidavit and vakalatnama filed in the bail application of one of the accused. There seems to be no miscarriage of justice in this case which may give liberty to the petitioner to approach this Court under Section 482 CrPC. It is a fit case in which a heavy cost may be imposed. However, I refrain to impose any cost keeping in view the trauma being faced by the petitioner.

5. In view of the above, the petition is dismissed. The petitioner is at liberty to approach the concerned Administrative Judge, for redressal of his grievance.

Order Date :- 9.11.2023

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