

Court No. - 13

Case :- APPLICATION U/S 482 No. - 10843 of 2023

Applicant :- Rafeeq Jahan

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

Counsel for Applicant :- Shadab Haider

Counsel for Opposite Party :- G.A.

Hon'ble Karunesh Singh Pawar,J.

Heard learned counsel for the applicant and learned AGA for the State.

Notices to respondent no. 2 is dispensed with.

By this petition, the applicant has prayed for the following relief:-

Wherefore, it is most respectfully prayed that this Hon'ble Court may kindly be pleased to quash the impugned revisional order dated 20.10.2023 passed by Session Judge, Lucknow in criminal revision no. 682/2022, Rafeeq Jahan versus State of U.P. and another as well as impugned summoning order dated 26.09.2022 passed by learned Additional Chief Judicial Magistrate-IV, Court No.28, Lucknow, Smt. Ila Devi Rastogi versus Smt. Rafeeq Jahan in complaint No. 26260/2022 under section 406 and 420 I.P.C. Police Station-Bazar Khala, District-Lucknow alongwith the entire criminal proceedings of the aforesaid complaint case pending before the learned Additional Chief Judicial Magistrate, Court No.28, Lucknow as contained in Annexure No.1 and 2 to this petition in the interest of justice.

Learned counsel for the applicant submits that he has been falsely implicated. The complaint case has been maliciously filed.

It has been further submitted that since the salary of the applicant was not paid by the complainant and her institute, a legal notice was given by the applicant through her advocate and as a counter blast thereof, the complaint case has been filed.

Perused the record.

It appears from perusal of the record that the applicant was appointed as Nursery Teacher in the institute of the complainant. She was appointed in the year 2007 and her work was to deposit fees into the bank. Since 2018-2019, there were complaints received regarding the irregularity in depositing of fee by the applicant and after manually checking the accounts, irregularity between Rs. 1,60,000/- to Rs. 1,80,000/- was found

and thus a notice was given to the applicant who left the school on 05.01.2020. While passing the impugned order, the learned trial court has considered the averments made in the complaint, statements recorded under section 200 and 202 Cr.P.C. and after finding prima facie case under Section 406/420 IPC, the appropriate summoning order has been passed which is impugned in this petition.

The revisional Court has also found that no irregularity has been committed by trial court while passing the summoning order. The defence raised by the applicant that since she has given legal notice to the complainant, the complaint has been lodged, cannot be considered at the stage of taking cognizance or at this stage. The same shall be seen by the trial court at the appropriate stage during trial.

Prima facie commission of offence is made out from perusal of the record. I find no irregularity in the impugned order. The petition is devoid of merit and is accordingly dismissed.

Order Date :- 6.11.2023
R.C.