

Court No. - 12

Case :- APPLICATION U/S 482 No. - 11368 of 2023

Applicant :- Amit Kapoor

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

Counsel for Applicant :- In Person

Counsel for Opposite Party :- G.A.

Hon'ble Rajeev Singh,J.

1. Heard the applicant, in person and learned A.G.A. for the State.
2. This application has been filed with the prayer for re-investigation in F.I.R. No. 187 of 2023, under Sections 457, 380 I.P.C., P.S. Vibhuti Khand, District Lucknow after considering the CCTV footage.
3. The applicant appearing in person submits that on 06.04.2023 at about 11.30 p.m., when he is locking the main door of his house, he heard some noise, on which, he started looking outside and found that three unknown persons were present inside the Green Belt Park, two of which, were sitting on the bench. Thereafter all the suspects ran away one by one. It is also alleged therein that earlier on 04.04.2023, some suspects were roaming around the house of the applicant. Later on, it came into the notice of the applicant that donation box of Shri Hanuman Ji Temple was broken by the suspects persons and about Rs.800/- were taken away. Submission of the applicant is that the Investigating Officer never visited the site and neither drew the site plan nor recorded the statement under Section 161 Cr.P.C. on the spot and merely on the basis of paper work, he submitted final report without giving information to the applicant as provided under Sections 173 (2)(ii) Cr.P.C. As the aforesaid provision clearly provides that S.H.O. shall also communicate to the victim about the action taken and, therefore, indulgence of this Court is necessary and the

Commissioner of Police may be directed to depute some senior officer for conducting the re-investigation of the case in question.

4. Learned A.G.A. vehemently opposes the prayer of the applicant and submits that after detail investigation, police report was submitted in accordance with the provisions of Section 173 (2) Cr.P.C. It is also submitted that the applicant is not a victim in the present case, as the custodian of the donation box is the priest of the temple and admittedly, he had not made any complaint of stolen money from the same. Further, the applicant, merely on the basis of presumption, made the complaint that a sum of Rs.800/- was stolen from the donation box of the temple. It is lastly submitted that the complaint is a sheer abuse of the process of legal provisions and, therefore, the present application is liable to be dismissed.

5. Considering the arguments advanced by the applicant, learned A.G.A. and going through the contents of the application, F.I.R. as well as other relevant documents, it is evident that the F.I.R. was lodged by the applicant with the allegation that three suspects had stolen Rs.800/- from the donation box of the temple. Admittedly, the amount mentioned in the donation box is merely on the basis of presumption. It is also not in dispute that the priest, who is the custodian of the temple, has not made any complaint that any amount was stolen from the donation box on the alleged date.

6. In view of above facts and circumstances, the application is misconceived and stands dismissed.

Order Date :- 22.11.2023

VKS