

Court No. - 15

Case :- APPLICATION U/S 482 No. - 12039 of 2023

Applicant :- Shiv Kumar Yadav

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

Counsel for Applicant :- Mohammad Ayub

Counsel for Opposite Party :- G.A.

Hon'ble Shamim Ahmed,J.

Heard Mohmmad Ayub, learned Counsel for the applicant, Shri S.K. Pandey, learned A.G.A. for the State and perused the material placed on record.

The present application under Section 482 Cr.P.C. has been filed on behalf of the applicant seeking quashing of the impugned order dated 18.11.2023 passed by learned Additional District and Sessions Judge, Court No.3, Lucknow.

Learned Counsel for the applicant submits that the original order dated 08.09.2022 by which a penalty has been imposed upon the applicant to the tune of Rs.45,00,000/-(Rupees Forty Five Lakhs only) has already been challenged before this Court in Application Under Section 482 Cr.P.C. No.8760 of 2022, which is still pending before this Court, this fact finds mention at paragraph No.1 of the affidavit filed in support of the present application.

Learned Counsel for the applicant further submits that the applicant could not comply with the order dated 08.09.2022 within stipulated time fixed by the court below, thus, the court below vide impugned order dated 18.11.2023 issued a recovery warrant against the applicant, which is has been challenged in this application, thus, he submits that the impugned order may be set aside.

Shri S.K. Pandey, learned A.G.A. for the State made a preliminary objection regarding maintainability of the present application filed by the applicant and submits that subsequent cause of action and the original order by which a penalty of Rs.45,00,000/- (Rupees Forty Five Lakhs Only) has been imposed upon the applicant vide order dated 08.09.2022 passed by the court below has already been challenged before this Court in Application Under Section 482 Cr.P.C. No.8760 of 2022, which is still pending before this Court and no interim

protection was granted by this Court to the applicant, thus, challenging an order, which has been passed due to non compliance of the original order is not maintainable, whatever grievance the applicant have, he may move an application before appropriate forum for redressal of his grievance. This application is totally misconceived and is liable to be dismissed.

After some arguments, learned Counsel for the applicant submits that he does not want to press the present application and the same may be dismissed as withdrawn.

Learned A.G.A. has no objection to the aforesaid contention made by learned Counsel for the applicant.

In view thereof, the present application is hereby **dismissed** as withdrawn.

Order Date :- 12.12.2023

Piyush/-