

Court No. - 13

Case :- APPLICATION U/S 482 No. - 11351 of 2024

Applicant :- Wasif Ali Siddiqui

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

Counsel for Applicant :- Vinod Kumar, Anand Pratap Singh

Counsel for Opposite Party :- G.A.

Hon'ble Rajeev Singh, J.

1. In pursuance of earlier order, Mr Ratnesh Chandra, Special counsel for Lucknow development Authority, Lucknow is present and he has informed that no record related to the allotment of property in question is available in the office of LDA, Lucknow.

2. Heard learned counsel for the applicant, learned AGA for the State and perused the record.

3. The present application has been filed with the prayer to quash the impugned Judgment and order dated 28.10.2024, passed by the Additional District and Session Judge, Court No.-18, Lucknow, in Criminal Revision No.203/2024 and order dated 05.03.2024 passed by Additional Chief Judicial Magistrate, Fifth, Court No.-29, Lucknow in Misc. Case No.470/2024 upon the First Information Report of the Case Crime No.495/2022, Under Section-419,420,506,379 I.P.C., Police Station Ashiyana, District Lucknow parties "Wasif Ali Siddiqui Versus State and others".

4. Learned counsel for the applicant submits that ₹9,42,000/- was taken by opposite party no.2 from the applicant claiming herself as owner of the property in question, thereafter, one Ashok Kumar Srivastava came in the picture and informed that he was the employee of LDA, Lucknow and he was owning the property in question. At the same time, the shop of applicant was also demolished by Ashok Kumar Srivastava. Thereafter, FIR of case in question was lodged and after investigation, the final report was submitted by the Investigating Officer. The protest petition was also filed, but the same was also rejected without considering the grievance of the applicant, and thereafter, revision was also filed which was again rejected in the most mechanical manner, therefore, kind indulgence of this Court is necessary.

5. Learned AGA has vehemently opposed the prayer of

applicant but he did not dispute this fact that the allegation for cheating is made out, if it is established that that ₹9,42,000/- was taken by the opposite party no.2 from the applicant.

6. Considering the submissions of learned counsel for the parties, going through the contents of application, as well as other relevant documents, it is evident that a considerable amount was taken by the opposite party no.2 from the applicant, and thereafter, his shop was demolished by Ashok Kumar Srivastava. In such circumstances, the trial court committed error in rejecting the protest petition of applicant without considering the fact that opposite party no.2 was claiming herself as the owner of the said property.

7. In view of the above, the present application is hereby **allowed** and the order dated impugned Judgment and order dated 28.10.2024, passed by the Additional District and Session Judge, Court No.-18, Lucknow, in Criminal Revision No.203/2024 and order dated 05.03.2024 passed by Additional Chief Judicial Magistrate, Fifth, Court No.-29, Lucknow in Misc. Case No.470/2024 are hereby set aside with liberty to trial court to pass a fresh order after considering the protest petition of the applicant.

Order Date :- 18.12.2024

V. Sinha