

Court No. - 88

Case :- APPLICATION U/S 482 No. - 11311 of 2020

Applicant :- Gyan Prakash Agarwal

Opposite Party :- State of U.P. and Another

Counsel for Applicant :- Vikas Srivastava

Counsel for Opposite Party :- G.A.

Hon'ble Dinesh Pathak,J.

Heard Shri Vikas Srivastava, learned counsel for the applicant and the learned A.G.A.

Present application under Section 482 Cr.P.C. has been filed by the applicant to set-aside the the impugned order dated 06.04.2019 passed by the Chief Judicial Magistrate, Ghaziabad wherein the discharge application moved by the applicant in Case Crime No. 2600 of 2009 registered under Section 420, 467, 471 I.P.C., Police Station Indrapuram, District Ghaziabad in pursuance of the F.I.R. dated 27.10.2009.

It is submitted by the learned counsel for the applicant that AJPA Parishad Cooperative Housing Society (herein referred to as the 'AJPA Society') is a registered Cooperative Housing Society under the U.P. Cooperative Societies Act, 1965 and U.P. Cooperative Adhiniyam, 1968 having its registration No. 2087. Opposite party no. 2 namely Sachin Sharma had fraudulently taken the membership of the AJPA Society vide Membership No. 615 dated 20.02.2001. Due to default in payment and wrong declaration/information given to the AJPA Society, her membership was terminated vide order dated 24.04.2006 and the amount of Rs.3,06,100/-, which was deposited by opposite party no. 2, was returned to her through Cheque No. 416725 dated 24.04.2006. The present applicant has no concern with the aforesaid AJPA Society. He is neither Secretary nor Member of the AJPA Society. Further submission is that in the F.I.R. no specific allegation has been made against the application except showing him as Land Mafia. When the membership of the opposite party no. 2 was terminated, an after thought F.I.R. dated 27.01.2009 was lodged.

From the record it is clear that several show-cause notice to the opposite party no. 2 was issued but she did not reply. It is submitted by the learned counsel for the applicant that the applicant has been falsely implicated in the present case. He has no concern with the Society and the opposite party no. 2. The learned Trial Court has illegally rejected the discharge application of the applicant without examining the submissions

advanced on his behalf and simply reiterated the grounds as mentioned in the application dated 27.11.2018.

Matter requires consideration.

Learned A.G.A. has accepted notice on behalf of opposite party no. 1.

Issue notice to opposite party no. 2 through concerned Chief Judicial Magistrate as well as by registered post.

Steps be taken within a week.

After service of notice, the respondents may file counter affidavit within three weeks. Rejoinder affidavit, if any, may be filed within two weeks thereafter.

List this case on **03.02.2021**.

Till the next date of listing, no coercive action shall be taken against the applicant in pursuance of the impugned order dated 06.04.2019.

Order Date :- 18.11.2020

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