

Court No. - 77

Case :- APPLICATION U/S 482 No. - 17717 of 2024

Applicant :- Sheel Kumar Hajela

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

Counsel for Applicant :- Ram Badan Maurya, Sr. Advocate

Counsel for Opposite Party :- Ajay Kumar, G.A.

Hon'ble Rajeev Misra, J.

1. Heard Mr. Kamal Krishna, the learned Senior Counsel assisted by Mr. Ram Badan Maurya, the learned counsel for applicant and the learned A.G.A. for State-opposite party-1 and Mr. Ajay Kumar, the learned counsel representing first informant/opposite party-2.

2. Perused the record.

3. Applicant -Sheel Kumar Hajela, who is a charge sheeted accused, has approached this Court by means of present application under Section 482 Cr.P.C. with the following prayer:

"It is therefore most respectfully prayed that this Hon'ble Court may graciously be pleased to allow the instant application and to quash the impugned charge-sheet dated 04.12.2023, cognizance order dated 11.12.2023 and entire proceedings of Case No. 2580/2023 (State Vs. Sheel Kumar Hajela & others) arising out of Case Crime No. 625/2022, under Sections-420, 467, 468, 471, 120-B, 506 I.P.C., Police Station-Chhibramau,, District- Kannauj, pending in court of Additional Chief Judicial Magistrate, Chhibramau, District Kannauj.

It is further prayed that this Hon'ble Court may graciously be pleased to stay the entire proceedings of Criminal Case No. 2580/2023 (State Vs. Sheel Kumar Hajela & others) arising out of Case Crime No. 625/2022, under Sections-420, 467, 468, 471, 120-B, 506 I.P.C., Police Station-Chhibramau,, District- Kannauj, pending in court of Additional Chief Judicial Magistrate, Chhibramau, District Kannauj during pendency of the present application in this Hon'ble court otherwise the applicant shall

suffer irreparable loss, great hardship and legal injury. "

4. Learned senior counsel for applicant invited the attention of Court to the plaint of Original Suit No. 186 of 2023 (Pratap Singh Vs. Sheel Kumar Hajela and others) whereby a decree for cancellation of registered gift deed dated 15.07.2022 has been prayed for. The applicant Shiv Kumar Hajela is the defendant no.1 in the aforementioned suit. Attention of Court was then invited to the plaint of Original Suit No. 174 of 2022 (Pratap Singh Vs. Sheel Kumar Hajela), which has been filed for a decree of permanent injunction in respect of the land in dispute. On the above conspectus, the learned senior counsel for applicant submits that the basis of right title and interest of applicant Sheel Kumar Hajela is the subject matter of adjudication before the Civil Court in aforementioned civil suit. On the above premise, he therefore submits that essentially a purely civil dispute has been dragged into criminal litigation. Referring to the judgement of Supreme Court in **Naresh Kumar and another Vs. State of Karnataka and another, 2024 SCC OnLine SC 268**, he submits that impugned charge sheet as well as consequential cognizance order/summoning order passed by court below are liable to be quashed by this Court.

5. Per contra, the learned A.G.A. for State-opposite party-1 and Mr. Ajay Kumar, the learned counsel representing first informant/opposite party-2 have opposed the present application. However, they could not dislodge the factual and legal submissions urged by the learned senior counsel for applicant with reference to the record at this stage.

6. Having heard the learned senior counsel for applicant, the learned A.G.A. for State, the learned counsel representing first informant/opposite party-2 upon perusal of record and considering

the factual/legal submissions urged by the learned senior counsel for applicant, matter requires consideration.

7. Notice on behalf of opposite party-1 has been accepted by the learned A.G.A.

8. Mr. Ajay Kumar Advocate has put in appearance on behalf of first informant/opposite party-2.

9. All the opposite parties may file their respective counter affidavits within a period of four weeks. Applicant will have two weeks thereafter to file rejoinder affidavit.

10. List for admission after expiry of the aforesaid period.

11. Considering the facts and circumstances of the case and also the submissions urged by the learned senior counsel for applicant in support of present application, as noted herein above, as an interim measure it is hereby provided that until further orders of this Court, further proceedings of Case No. 2580/2023 (State Vs. Sheel Kumar Hajela & others) arising out of Case Crime No. 625/2022, under Sections-420, 467, 468, 471, 120-B, 506 I.P.C., Police Station-Chhibramau,, District- Kannauj, now pending in court of Additional Chief Judicial Magistrate, Chhibramau, District Kannauj, shall remain stayed.

Order Date :- 3.9.2024

YK