

Court No. - 89

Case :- APPLICATION U/S 482 No. - 16627 of 2024

Applicant :- Parul Agarwal

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

Counsel for Applicant :- Gunjan Jadwani, Rahul Agarwal

Counsel for Opposite Party :- G.A.

Hon'ble Mayank Kumar Jain, J.

1. Heard learned counsel for applicants, learned AGA for the State and perused the record.
2. It is submitted by learned counsel for the applicant that applicant was constrained to lodge a complaint on 25.2.2021 with Economic Offences Wing (" EOW") and filed an F.I.R. as Case Crime No. 0017 of 2022, under Sections 420, 120-B, 7 and 13(1) (A) and 13(2) of the Prevention of Corruption Act. The present proceedings are initiated as counter blast. The present proceedings are initiated after more than one year of the said F.I.R. It is further submitted that the news item was published in different news papers. Although the applicant was an informant in the F.I.R. but her name did not appear in any news item. Even the witness recorded under Section 202 Cr.P.C. did not mention the name of the applicant while they deposed the name of the applicant was informed to them by opposite party No. 2. Opposite party No. 2 is brother-in law (Nandoi) of the applicant. The case of the applicant is squarely covered with the eighth exception of Section 499 I.P.C.
3. Learned counsel for the applicant vehemently submitted that on 13.2.2024, two orders were passed by the learned trial court. In the first order the complaint of the opposite party No. 2 was dismissed under section 203 Cr.P.C. while in the second order, the applicant is summoned to face trial under Section 500 of IPC.
4. Per contra learned Additional Government Advocate opposed the contentions made by learned counsel for the applicant.
5. Matter requires consideration.
6. Issue notice to opposite party no. 2 through C.J.M. Ghaziabad, returnable within a week.
7. Steps be taken within three days.

8. Notice on behalf of State has been accepted by learned AGA.

9. Put up as fresh on **31.05.2024**.

10. Till the next date fixed, no coercive action shall be taken against applicant in Complaint Case No. 5339 of 2023 Ankur Garg Vs. Smt. Parul Agrawal, under Section 500 of IPC, Police Station Kavi Nagar, District Ghaziabad, pending before the Chief Judicial Magistrate, Ghaziabad.

11. Perusal of the record goes to show that complaint no.5339/2023 Ankur Garg Vs. Smt. Parul Agrawal, is pending before the Additional Chief Judicial Magistrate, Court No.5, Ghaziabad. It appears that on 13.02.2024, two orders were passed in the said complaint by the learned Magistrate. One order which was uploaded on the CIS system is the order whereby the complaint filed by opposite party no.2 was dismissed under Section 203 of Cr.P.C., whilst the another order passed in the said complaint on 13.02.2024, a certified copy of which is annexed to the present application as Annexure No.2, is the order whereby the applicant has been summoned to face trial.

12. In view of the above, Sri Sandeep Singh, the then Additional Chief Judicial Magistrate, Court No.5, Ghaziabad (it has been apprised to this court that the said Judicial Officer is presently posted at District Rampur), is directed to file his personal affidavit before this Court by the next date fixed explaining the aforesaid situation about existence of two contrary orders of the same date in the same complaint case under intimation to the concerned District Judge.

13. The District Judge, Rampur is directed to ensure compliance of this order.

14. Registrar (Compliance) of this Court is directed to communicate this order to the concerned Judicial Officer as well as concerned District Judge forthwith, for compliance.

Order Date :- 20.5.2024

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