

Court No. - 55

Case :- APPLICATION U/S 482 No. - 31048 of 2009

Applicant :- Ram Prakash Sharma

Opposite Party :- State Of U.P. And Another

Counsel for Applicant :- Sharique Ahmed

Counsel for Opposite Party :- Govt. Advocate, Ajay Singh
Bharat, Pushpraj Singh

Hon'ble Shashi Kant, J.

Case called out. No one is present on behalf of opposite party no. 2 though he is represented through Sri Ajay Singh Bharat and Pushpraj Singh, Advocates.

Learned counsel for the applicant seeks permission to file rejoinder affidavit explaining delay caused in filing of it.

Learned A.G.A. has no objection in grant of above permission.

In view of above, applicant is permitted to file the above referred rejoinder affidavit, which is taken on record.

Heard Sri Sharique Ahmed, learned counsel for the applicant as well as Sri B.D Nishad, learned A.G.A for the State.

This application under Section 482 Cr.P.C. has been filed for quashing the Charge Sheet No. 175 of 2007 filed in Case No. 4767 of 2007- State Vs. Vijay Kumar Tandon and others arising out of Case Crime No. 137 of 2007, under Sections 420, 467, 468, 471, I.P.C., Police Station Kotwali, District Kanpur Nagar, pending before Special Chief Judicial Magistrate, Kanpur Nagar. Further prayer has been made to quash the entire proceedings of aforesaid case.

Sri Sharique Ahmed, learned counsel for the applicant contended that at the relevant time, the applicant was posted as Branch Manager Allahabad Bank main Branch, Mal Road, Kanpur Nagar. During that period, a cheque no. 214063 dated 22.03.2007 amounting to Rs. 4,90,000/- in the name of Vijay Kumar Tandon, co-accused, was received in Allahabad Bank through clearing house. In performance of his official duties, the applicant has compared signature of Smt. Shyama Devi opposite party no. 2 on the above cheque and found the same in order. In these circumstances, there was no occasion for him to withhold clearance/payment of the cheque rather he was duty bound to make payment of the cheque and accordingly he did so. The applicant is not named in the FIR. He has neither

withdrawn nor received any amount and nor beneficiary of that. In the facts and circumstances stated above, by no stretch of imagination any offence is made out against the applicant, hence proceeding of aforesaid case are liable to be quashed.

Sri B.D. Nishad, learned A.G.A. and Sri Pushpraj Singh, learned counsel for the opposite party no. 2 vehemently opposed the above submissions and prayer for quashing of the proceedings against the applicant but could not show anything from record, which may establish, even prima facie guilt of the applicant or his involvement in the commission of the offences alleged against him.

Having regard the rival submissions raised on behalf of the parties and perusal of the record, I am of the considered view that this application deserves to be allowed.

The application is **allowed**.

Charge Sheet No. 175 of 2007 filed in Case No. 4767 of 2007- State Vs. Vijay Kumar Tandon and others arising out of Case Crime No. 137 of 2007, under Sections 420, 467, 468, 471, I.P.C., Police Station Kotwali, District Kanpur Nagar, pending before Special Chief Judicial Magistrate, Kanpur Nagar as well as the entire proceedings of aforesaid case qua the applicant Ram Prakash Sharma are hereby quashed.

It is clarified here that this order will no way affect proceedings pending against the other co-accused namely Vijay Kumar Tandon and Sanjay Singh.

Order Date :- 24.8.2017

Sanjeet