

**Court No. - 87**

**Case :- APPLICATION U/S 482 No. - 13557 of 2020**

**Applicant :- Manish**

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

**Counsel for Applicant :- Sunil Kumar Pandey**

**Counsel for Opposite Party :- G.A.**

**Hon'ble Raj Beer Singh,J.**

The present application u/s 482 Cr.P.C. has been filed for quashing the impugned charge sheet dated 02.04.2020 and further proceedings of Case Crime No. 03 of 2020 (State Vs. Gajendra and others) under Sections 454, 380, 411 of IPC, Police Station Jewar, District Gautam Buddh Nagar pending in the court of Judicial Magistrate, Gautam Buddh Nagar.

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

It has been argued by learned counsel for applicant that applicant is innocent and that applicant was not named in FIR and that charge sheet has been filed without proper investigation and that no prima facie case is made out against applicant.

Learned AGA has opposed the application.

The legal position on the issue of quashing of criminal proceedings is well-settled that the jurisdiction to quash a complaint, FIR or a charge-sheet should be exercised sparingly and only in exceptional cases. However, where the allegations made in the FIR or the complaint and material on record even if taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused, the charge-sheet may be quashed in exercise of inherent powers under Section 482 of the Cr.P.C. In well celebrated judgment reported in **AIR 1992 SC 605 State of Haryana and others Vs. Ch. Bhajan Lal**, Supreme Court has carved out certain guidelines, wherein FIR or proceedings may be quashed but cautioned that the power to quash FIR or proceedings should be exercised sparingly and that too in the rarest of rare cases.

In the instant matter, the submissions raised by learned counsel for the applicant call for determination on questions of fact which may be adequately adjudicated upon only by the trial court and even the submissions made on points of law can also be more appropriately gone into only by the trial court. Adjudication of questions of facts and appreciation of evidence or examining the reliability and credibility of the version, does not fall within the arena of jurisdiction under Section 482 Cr.P.C. In view of the material on record it can also not be held that the impugned criminal proceeding are manifestly attended with mala fide and maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.

After considering arguments raised by the learned counsel for parties and

perusing the impugned charge sheet and the materials in support of the same, this Court does not find it to be a case which can be determined or gone into in an application under Section 482 CrPC. This Court cannot hold a parallel trial in an application under Section 482 Cr.P.C. No such ground appears to be available to the applicant, on the basis of which the impugned charge sheet can be quashed going by the settled law in **R.P. Kapur Vs. State of Punjab, A.I.R. 1960 S.C. 866, State of Haryana Vs. Bhajan Lal, 1992 SCC (Cr.) 426, State of Bihar Vs. P.P.Sharma, 1992 SCC (Cr.) 192 and Zandu Pharmaceutical Works Ltd. Vs. Mohd. Saraful Haq and another 2005 SCC (Cr.) 283.**

Accordingly, the prayer for quashing the impugned charge sheet is refused.

However, keeping in view the facts of the matter and impact of Covid-19 Pandemic, it is directed that in case applicant appears and surrenders before the Court below and applies for bail within a period of 45 days from today, his bail application shall be considered and decided expeditiously in accordance with settled law. For a period of 45 days from today or till the applicant surrenders before the Court below, whichever is earlier, no coercive action shall be taken against the applicant.

The party may file computer generated copy of this order downloaded from the official website of High Court Allahabad, self attested by the applicant.

The concerned Court/Authority/Official shall verify the authenticity of such computerized copy of the order from the official website of High Court Allahabad and shall make a declaration of such verification in writing.

With the aforesaid direction, the application is disposed of finally.

**Order Date :- 30.9.2020**

**Mohit**