

Court No. - 77

Case :- APPLICATION U/S 482 No. - 9929 of 2023

Applicant :- Asaduddin Owaisi

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

Counsel for Applicant :- Azim Ahmad Kazmi,Imran Ullah

Counsel for Opposite Party :- G.A.,Vijay Prakash Chaturvedi

Hon'ble Sanjay Kumar Singh,J.

1. This application under Section 482 Cr.P.C has been preferred by the applicant with a prayer to quash the summoning order dated 10.01.2023 and proceeding of Complaint Case (MP/MLA) No. 566 of 2022 (Rakesh Pratap Singh Vs. Asaduddin Owaisi and Another), under Sections 153-A, 295-A and 298 I.P.C., Police Station Shohratgarh, District Siddharth Nagar, pending in the court of Chief Judicial Magistrate, Siddharth Nagar.

2. On the matter being taken up, Mr. Imran Ullah learned counsel for the applicant and Mr. Sanjay Kumar Singh learned Additional Government Advocate for the State are present but Mr. Vijay Prakash Chaturvedi learned counsel for the complainant/opposite party no.2 is not present and on his behalf Mr. Shubham Ram, learned Advocate, appears and submits that he is out of station.

3. It is submitted by learned counsel for the applicant that the complaint has been filed by opposite party no.2 against the applicant under Section 153-A, 259-A and 298 I.P.C. without obtaining required sanction under Section 196(1) Cr.P.C. It is next submitted that the applicant has been summoned vide impugned order dated 10.01.2023 passed by learned Chief Judicial Magistrate, Siddharth Nagar without recording the statement under Section 202 Cr.P.C., whereas the applicant is resident of outside the State of Uttar Pradesh, therefore, in view of the amendment by Act No. 25 of 2005 with effect from 23.06.2006 an enquiry under Section 202(1) Cr.P.C. is mandatory.

4. On putting precise query with regard to required sanction under Section 196(1) Cr.P.C., Mr. Sanjay

Kumar Singh, learned Additional Government Advocate for the State fairly submits that there is no sanction for prosecution against the applicant as required under Section 196(1) Cr.P.C. in the present case. He further submits that since it is a complaint case filed by private person/opposite party no.2, therefore, suitable reply in this regard can be given by the complainant/opposite party no.2.

5. From perusal of order-sheet, I find that as per the status report of this case, Mr. Vijay Prakash Chaturvedi has filed his Vakalatnama on behalf of complainant/opposite party on 01.08.2023, but till date, no counter affidavit or stay vacation application has been moved on behalf of opposite party no.2.

6. List this case on 16.04.2024 for hearing.

7. Interim order, earlier granted vide order dated 22.03.2023, is extended until further order of this Court.

Order Date :- 5.3.2024

Kashifa