

**Case :-** APPLICATION U/S 482 No. - 15830 of 2020

**Applicant :-** Govind Narayan And Another

**Opposite Party :-** State Of U.P. And 2 Others

**Counsel for Applicant :-** Ashok Kumar Mishra

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

**Hon'ble Siddharth,J.**

Heard Sri Ashok Kumar Mishra, learned counsel for the applicant and Sri Gambhir Singh, learned A.G.A. for the State.

The present 482 Cr.P.C. application has been filed for quashing the entire proceedings initiated in pursuance of the order dated 23.07.2020 passed by the Superintendent of Police, Ghazipur and the order dated 14.08.2020 passed by S.H.O., Police Station- Saidpur, District- Ghazipur against the applicants in Case Crime No. 136 of 2019, under Sections- 419, 420, 467, 468, 471, 504, 506 IPC, Police Station- Saidpur, District- Ghazipur.

Counsel for the applicant has submitted that opposite party no. 2 has lodged an FIR against the applicant which is registered as Case Crime No. 136 of 2019, under Sections- 419, 420, 467, 468, 471, 504, 506 IPC, Police Station- Saidpur, District- Ghazipur. The Investigating Officer after investigation has submitted a final report in this case and on 16.10.2019 the Judicial Magistrate concerned has taken cognisance of the same. On 19.12.2019 he issued notice to the informant to show cause why the final report may not be accepted. Counsel for the applicant has placed before the court the certified copy of the order sheet and has stated that on 17.03.2020 counsel for the opposite party no. 2- informant had appeared before Judicial Magistrate, Saidpur, District- Ghazipur and has filed vakalatnama of the counsel along with protest petition. As yet no order has been passed on the protest petition and the final report and the matter is pending for consideration by the Judicial Magistrate aforesaid.

Counsel for the applicant has submitted that thereafter the functioning of the courts were paralysed on account of spread of novel corona virus. The Superintendent of Police, District- Ghazipur directed the Inspector Incharge of Police Station- Saidpur, District- Ghazipur to proceed with further investigation of the case by his letter dated 19.07.2020. In the letter of the Superintendent of Police, Ghazipur, it has been mentioned that it was expected that the orders from the court

would be obtained for further investigation and the report shall be submitted upto 17.07.2020 but he has not been apprised of the result of further investigation as a result of which the Additional Director General of Police, Varanasi Zone, Varanasi, has expressed his displeasure and has directed that the report regarding further investigation should be presented forthwith. Therefore, it is directed that the further investigation should be concluded and result of the investigation should be presented before him forthwith within two days. On the aforesaid letter of Superintendent of Police, brought on record on the Annexure 8 to the affidavit in support of the application, there is endorsement of the S.H.O. concerned directing the Investigating Officer to conduct further investigation in the matter.

Prima facie it appears that during the pendency of the final report before Magistrate the Police Officials have misused their powers and have compelled the Investigating Officer to conduct further investigation. The conduct of the Additional Director General of Police, Varanasi Zone, Varanasi, Superintendent of Police, Ghazipur and Inspector Incharge/S.H.O. of Police Station, Saidpur, District- Ghazipur are absolutely against the law. They had no authority to call for report of further investigation without ascertaining whether final report and the protest petition before the Magistrate has been decided or not.

Learned A.G.A prays for and is allowed a weeks' time to seek instructions in this matter/ or file counter affidavit.

Put up this case as a fresh case before appropriate court on **04.11.2020.**

In case it is found that the recital in the letter dated 9.07.2020 of the Superintendent of Police is correct, the Station House Officer of Police Station, Saidpur, District- Ghazipur will file his personal affidavit explaining as to why he passed the order dated 14.08.2020 directing the Sub-Inspector to conduct further investigation without waiting for the order of the court. If it is found that this order was passed under the pressure of the Superintendent of Police, Saidpur, District- Ghazipur and the Additional Director General of Police, Varanasi Zone, Varanasi, they may be summoned by this court to appear in person for explaining their conduct.

It is made clear that in case no instructions are received or counter affidavit is not filed by S.H.O. of Police Station- Saidpur, the orders for summoning the Superintendent of Police, Ghazipur and the Additional Director General of Police, Varanasi Zone, Varanasi shall be passed by this court.

Until further orders the arrest of applicants by S.H.O., Police Station- Saidpur, District- Ghazipur shall remain stayed in Case Crime No. 136 of 2019, under Sections- 419, 420, 467, 468, 471, 504, 506 IPC, Police Station- Saidpur, District- Ghazipur.

**Order Date :- 23.10.2020 / Rohit**