

**Neutral Citation No. - 2024:AHC:105288**

**AFR**

**Reserved on 25.06.2024**

**Delivered on 27.06.2024**

**Court No. - 66**

**Case :- APPLICATION U/S 482 No. - 14659 of 2024**

**Applicant :- Kamlesh Singh**

**Opposite Party :- State Of U.P. And 3 Others**

**Counsel for Applicant :- Shreyas Srivastava**

**Counsel for Opposite Party :- G.A.,Surya Pratap Singh Parmar,Ved Prakash Dwivedi**

**Hon'ble Saurabh Shyam Shamshery,J.**

1. Applicant-Kamlesh Singh (accused) and Complainant-Ishwar Singh (Opposite Party No. 4) are resident of Mumbai. The matter pertains to properties situated in District Mainpuri, details of which are mentioned in para 8 of present application.

2. The case is further arising out of a registered power of attorney purportedly executed by accused in favour of one, Shiv Ram Mishra in the year 2008. After a period of more than a decade it has now been alleged that applicant was not empowered to execute the said power of attorney and it was a piece of fraud and forgery.

3. It is not in dispute that after execution of power of attorney there were civil proceedings between applicant and Opposite Party No. 4 (Complainant) that a suit for perpetual injunction being Original Suit No. 171 of 2012 (Ishwar Singh Vs. Kamlesh Singh and others) was filed wherein on basis of a compromise, the suit was withdrawn though now it has been contended that referred compromise was entered by a person not empowered to do so. However, it is not in dispute that neither said compromise was challenged nor order to withdraw the suit was challenged. The Complainant has not taken any subsequent action, either civil or criminal, for a decade till he has lodged F.I.R. dated 14.07.2023 against applicant wherein after investigation a charge sheet was filed, which is subject matter of present case, alleging

that a fraud was played by applicant with regard to properties referred above as well as power of attorney was also a result of a fraud.

4. In pursuance of above referred F.I.R. investigation was conducted and a charge sheet dated 30.08.2023 was filed in Case Crime No. 0471 of 2023, under Sections 419, 420, 467, 468, 471 I.P.C. wherein Trial Court took cognizance and applicant has been summoned vide order dated 22.09.2023, which is impugned in present application.

5. Sri Manish Tiwari, learned Senior Advocate assisted by Sri Pranav Tiwari, learned Counsel for applicant, has vehemently urged that even considering the material available before Investigating Officer, the offences referred above are not made out. The Complainant has given a cloak of criminal offence to a dispute which is essentially of civil nature and which has already been settled by way of a compromise and on its basis an earlier suit was withdrawn. Learned Senior Advocate also added that recently Complainant has filed a fresh suit against applicant on same issue. Learned Senior Advocate further referred that an inquiry was conducted on a complaint of Complainant by a Senior Police Officer wherein it was found that allegations against applicant were of civil nature. Learned Senior Advocate referred ingredients of offences, that they are not made out.

6. Per-contra, Sri Ved Prakash Dwivedi, learned counsel for Opposite Party No. 4, has vehemently urged that applicant has not only executed a power of attorney, though he was not entitled to do so, but under the garb of power of attorney number of transactions of property situated at District Mainpuri were executed as well. The factum of compromise and withdrawal of earlier suit was not disputed, however, learned counsel has submitted that not only power of attorney was a paper of fraud but compromise itself was a creature of fraud though admittedly compromise or order of withdrawal of civil suit have not been challenged further. Power of attorney was also not challenged before an FIR was lodged after about 15 years. Learned counsel has drawn attention of Court to the statement of Complainant recorded under

Section 161 Cr.P.C during investigation, which is part of application being Annexure-9, and for reference the same is reproduced hereinafter:-

“ईश्वर सिंह पुत्र स्व० गंगा सिंह चौहान निवासी लाल सिंह मान सिंह बिल्डिंग लोहार चाल चतुर्थ तल, रूम नं० बी 53 व बी० 55 मुम्बई उम्र करीब 78 वर्ष ने पूछने पर बताया कि साहब मेरा बाबा श्री मोती सिंह पुत्र स्व० लाल सिंह के नाम मोजा आराजी लाईन देहात मैनपुरी गाटा संख्या 201/1 रकबा 0.036 हे०, गाटा संख्या 201/3 रकबा 0.142 हे० गाटा संख्या 252 रकबा 0.057 हे०, गाटा संख्या 253 रकबा 0.121 हे०, गाटा संख्या 254 रकबा 0.024 हे०, गाटा संख्या 256/1 रकबा 0.109 हे०, गाटा संख्या 257/1 रकबा 0.519 हे०, गाटा संख्या 558 रकबा 0.008 हे० गाटा संख्या 259 रकबा 0.073 हे०, गाटा संख्या 260 रकबा 0.053 हे०, गाटा संख्या 261 रकबा 0.045 हे०, गाटा संख्या 262 रकबा 0.194 हे०, गाटा संख्या 263/2 रकबा 0.048 हे०, गाटा संख्या 263/3 रकबा 0.016 हे० कुल 14 किता गाटा में कुल रकबा 1.4450 हे० था जो मोती सिंह के नाम फसली: वर्ष 1386 तक अंकित रही मेरे बावा मौती सिंह की मृत्यु के पश्चात उक्त जमीन विरासत के आधार पर राजस्व निरीक्षक के आदेश दिनांक 01.04.1977 के अनुसार फसली वर्ष 1387 से फसली वर्ष 1392 वर मोती सिंह के दोनों पुत्र हरनाम सिंह व गंगा सिंह के नाम अंकित होकर शुद्ध खाता बन गया। उसके पश्चात फसली वर्ष 1393 से 1398 में उपरोक्त जमीन के अभिलेखों में कमलेश के नाम पर भूलवस चढ़ गया और जमीन सिर्फ हरनाम सिंह के नाम अंकित हो गया। हरनाम सिंह की मृत्यु के पश्चात उक्त जमीन हरनाम सिंह के दत्तक पुत्र कमलेश सिंह के नाम फसली वर्ष 1411 से 1416 में अंकित हो गयी। प्रार्थी मुम्बई में निवास करता है। प्रार्थी के भाई भूपेन्द्र सिंह, किशोर सिंह, दिगविजय सिंह अमेरिका में रहते हैं। इस कारण इस सम्बन्ध में कोई जानकारी नहीं हो सकी। वर्ष 2008 में प्रार्थी को जानकारी होने पर प्रार्थी द्वारा राजस्व संहिता की धारा 33/39 के अन्तर्गत उप जिलाधिकारी मैनपुरी के न्यायालय में बाद सं०

281/2008 योजित किया जिसपर तहसील दार मैनपुरी द्वारा जांच कर लेखपाल आख्या, कानूनगो आख्या व तहसील दार मैनपुरी की आख्या दिनांक 18.09.2008 को उपरोक्त गाटाओं में प्रार्थी के पिता श्री गंगा सिंह का नाम उक्त जमीन में कमलेश सिंह के साथ सह खातेदार के रूप में जोड़ने की रिपोर्ट न्यायालय उपजिलाधिकारी सदर मैनपुरी को प्रेषित की गयी जिस पर न्यायालय उपजिलाधिकारी मैनपुरी सदर के द्वारा पक्षकार कमलेश सिंह को नोटिस जारी किये। वाद की सुनवाई के दौरान तत्कालीन उप जिलाधिकारी मैनपुरी के द्वारा आदेश दिनांक 01.02.2010 के स्थगन आदेश द्वारा विवादित आराजी पर यथा स्थिति बनाये रखने तथा दोनों पक्षों को किसी अन्य व्यक्ति को अन्तर्ण/बिक्री पर रोक लगाई थी। उपजिलाधिकारी मैनपुरी का स्थगन आदेश दिनांक 01.02.2010 आज भी प्रभावी है। इसी दौरान कमलेश सिंह के द्वारा दिनांक 09.09.2008 को उपनिबन्धक कार्यालय तहसील भोगाँव में शिवराम पुत्र परमेश्वर दयाल निवासी नई बस्ती देवपुरा के पक्ष में एक मुख्तार नामा तैयार करवाया गया जिसमें दोनों पक्षों के द्वारा अपने फर्जी पते अंकित कराये गये। कमलेश सिंह ने अपना पता छोटा बाजार भोगाँव तथा शिवराम ने अपना पता छोटा बाजार भोगाँव दर्शाया जबकि छोटा बाजार भोगाँव में उक्त लोगो द्वारा कभी निवास नहीं किया है। तत्समय शासनादेश पत्र संख्या 2890/शि०का०लख०/2003 दिनांक 25.07.2003 के अनुसार मुख्तार नामा अपने रक्त सम्बन्ध में कराने का नियम था तथा खून के रिस्तेदार से हटकर मुख्तारआम के लिए जिलाधिकारी की अनुमति अनिवार्य थी। उपनिबन्धक कार्यालय अलीगंज जिला एटा में रजिस्टर्ड करवायी गयी पावर आफ आटर्नी में जिलाधिकारी महोदय की अनुमति का जिक्र है। किन्तु यह अनुमति किस जनपद के जिलाधिकारी से ली गयी है यह बात पावर आफ आटर्नी में छिपाई गयी है। कमलेश सिंह के द्वारा किये गये मुख्तारआम में शिवराम को अपने रक्त सम्बन्ध में आने वाले चचाजात भाई बताया गया जबकि कमलेश सिंह ठाकुर जाति से तथा शिवराम सिंह मिश्रा ब्राह्मण जाति से है इस प्रकार उक्त कमलेश सिंह व शिवराम सिंह के

द्वारा गलत बयानी के आधार पर उपनिबन्धक कार्यालय भोगांव से तैयार कराये गये फर्जी मुख्तार आम के आधार पर जमीन की बिक्री की गयी। तत्पश्चात उपरोक्त लोगो के द्वारा दिनांक 31.12.2009 को एक मुख्तारआम पुनः उपनिबन्धक कार्यालय तहसील अलीगंज एटा में पंजीकृत करवाया जिसमें कमलेश सिंह के द्वारा अपना पता लाला सिंह मान सिंह बिल्डिंग, लोहार चाल मुम्बई दर्शाया गया तथा शिवराम का पता नई बस्ती देवपुरा मैनपुरी दर्शाया गया तथा सम्बन्ध में मित्र व विश्वासपात्र बताया। इस प्रकार कमलेश सिंह व शिवराम मिश्रा के द्वारा फर्जी व कूट रचित दस्तावेज तैयार कर तथा उपजिलाधिकारी मैनपुरी के द्वारा बिक्री पर रोक के उपरान्त भी प्रार्थी के पिता गंगा सिंह के हिस्से की ½ भाग की जमीन की बिक्री कर दी गयी है। यह भी अवगत करा दूं कि कमलेश सिंह चौहान द्वारा मुम्बई में भी फ्राड किया गया था। जिसके सम्बन्ध में कमलेश सिंह के विरुद्ध थाना मटुंगा जिला मुम्बई महाराष्ट्र में मु०अ०सं० 541/2021 धारा 419/420/467/ 468/471/34 भादवि में दिनांक 26.11.2021 को मुकदमा दर्ज हुआ था उपरोक्त कमलेश सिंह आदि प्रार्थी की पूर्वजों की सम्पत्ति को धोखाधडी व कूट रचना करके हडपने की पूरी कोशिश कर रहे हैं और मेरा नुकसान करने पर आमादा है। यही मेरा बयान है।... ..

प्रश्न... .. आपका वर्ष **2012** में माननीय न्यायालय में राजीनामा हो गया था उसके पश्चात आपने उक्त एफआईआर अंकित करायी है। ... ..  
उत्तर... . राजीनामा हमारा इस आधार पर हुआ था कि उक्त भूमि हरनाम सिंह व गंगा सिंह दोनों की थी। और आपसी बातें घर पर बैठकर कर लेंगे जिसमें हम भाईयों को अपना हिस्सा देने की बात मूँह जुबानी कही थी अब तक हिस्सा न देने और स्टे के बाद भी बैनामा कराने पर मेरे द्वारा यह एफआईआर दर्ज करायी थी।” (Emphasis supplied)

7. Heard learned counsel for parties and perused the material available on record.

8. Before advertng to rival submissions it would be relevant to refer few paragraphs of a recent judgement passed by Supreme Court in **A.M. Mohan Vs. State Represented by SHO and another, 2024 SCC OnLine SC 339**, as the facts of said case and discussion on law, would be relevant for consideration of present case:-

*“9. The law with regard to exercise of jurisdiction under Section 482 of Cr. P.C. to quash complaints and criminal proceedings has been succinctly summarized by this Court in the case of Indian Oil Corporation v. NEPC India Limited<sup>1</sup> after considering the earlier precedents. It will be apposite to refer to the following observations of this Court in the said case, which read thus:*

*“12. The principles relating to exercise of jurisdiction under Section 482 of the Code of Criminal Procedure to quash complaints and criminal proceedings have been stated and reiterated by this Court in several decisions. To mention a few—Madhavrao Jiwajirao Scindia v. Sambhajirao Chandrojirao Angre [(1988) 1 SCC 692 : 1988 SCC (Cri) 234], State of Haryana v. Bhajan Lal [1992 Supp (1) SCC 335 : 1992 SCC (Cri) 426], Rupan Deol Bajaj v. Kanwar Pal Singh Gill [(1995) 6 SCC 194 : 1995 SCC (Cri) 1059], Central Bureau of Investigation v. Duncans Agro Industries Ltd. [(1996) 5 SCC 591 : 1996 SCC (Cri) 1045], State of Bihar v. Rajendra Agrawalla [(1996) 8 SCC 164 : 1996 SCC (Cri) 628], Rajesh Bajaj v. State NCT of Delhi [(1999) 3 SCC 259 : 1999 SCC (Cri) 401], Medchl Chemicals & Pharma (P) Ltd. v. Biological E. Ltd. [(2000) 3 SCC 269 : 2000 SCC (Cri) 615], Hridaya Ranjan Prasad Verma v. State of Bihar [(2000) 4 SCC 168 : 2000 SCC (Cri) 786], M. Krishnan v. Vijay Singh [(2001) 8 SCC 645 : 2002 SCC (Cri) 19] and Zandu Pharmaceutical Works Ltd. v. Mohd. Sharaful Haque [(2005) 1 SCC 122 : 2005 SCC (Cri) 283]. The principles, relevant to our purpose are:*

*(i) A complaint can be quashed where the allegations made in the complaint, even if they are taken at their face value and accepted in their entirety, do not prima facie constitute any offence or make out the case alleged against the accused. For this purpose, the complaint has to be examined as a whole, but without examining the merits of the allegations. Neither a detailed inquiry nor a meticulous analysis of the material nor an assessment of the reliability or genuineness of the allegations in the complaint, is warranted while examining prayer for quashing of a complaint.*

*(ii) A complaint may also be quashed where it is a clear abuse of the process of the court, as when the criminal proceeding is found to*

*have been initiated with mala fides/malice for wreaking vengeance or to cause harm, or where the allegations are absurd and inherently improbable.*

*(iii) The power to quash shall not, however, be used to stifle or scuttle a legitimate prosecution. The power should be used sparingly and with abundant caution.*

*(iv) The complaint is not required to verbatim reproduce the legal ingredients of the offence alleged. If the necessary factual foundation is laid in the complaint, merely on the ground that a few ingredients have not been stated in detail, the proceedings should not be quashed. Quashing of the complaint is warranted only where the complaint is so bereft of even the basic facts which are absolutely necessary for making out the offence.*

*(v) A given set of facts may make out : (a) purely a civil wrong; or (b) purely a criminal offence; or (c) a civil wrong as also a criminal offence. A commercial transaction or a contractual dispute, apart from furnishing a cause of action for seeking remedy in civil law, may also involve a criminal offence. As the nature and scope of a civil proceeding are different from a criminal proceeding, the mere fact that the complaint relates to a commercial transaction or breach of contract, for which a civil remedy is available or has been availed, is not by itself a ground to quash the criminal proceedings. The test is whether the allegations in the complaint disclose a criminal offence or not.*

***13. While on this issue, it is necessary to take notice of a growing tendency in business circles to convert purely civil disputes into criminal cases. This is obviously on account of a prevalent impression that civil law remedies are time consuming and do not adequately protect the interests of lenders/creditors. Such a tendency is seen in several family disputes also, leading to irretrievable breakdown of marriages/families. There is also an impression that if a person could somehow be entangled in a criminal prosecution, there is a likelihood of imminent settlement. Any effort to settle civil disputes and claims, which do not involve any criminal offence, by applying pressure through criminal prosecution should be deprecated and discouraged. In G. Sagar Suri v. State of U.P. [(2000) 2 SCC 636 : 2000 SCC (Cri) 513] this Court observed : (SCC p. 643, para 8)***

***“It is to be seen if a matter, which is essentially of a civil nature, has been given a cloak of criminal offence. Criminal proceedings are not a short cut of other remedies available in law. Before issuing process a criminal court has to exercise a great deal of caution. For the accused it is a serious matter. This Court has laid certain principles on the basis of which the High Court is to exercise its jurisdiction***

*under Section 482 of the Code. Jurisdiction under this section has to be exercised to prevent abuse of the process of any court or otherwise to secure the ends of justice.”*

*14. While no one with a legitimate cause or grievance should be prevented from seeking remedies available in criminal law, a complainant who initiates or persists with a prosecution, being fully aware that the criminal proceedings are unwarranted and his remedy lies only in civil law, should himself be made accountable, at the end of such misconceived criminal proceedings, in accordance with law. One positive step that can be taken by the courts, to curb unnecessary prosecutions and harassment of innocent parties, is to exercise their power under Section 250 CrPC more frequently, where they discern malice or frivolousness or ulterior motives on the part of the complainant. Be that as it may.”*

*10. The Court has also noted the concern with regard to a growing tendency in business circles to convert purely civil disputes into criminal cases. The Court observed that this is obviously on account of a prevalent impression that civil law remedies are time consuming and do not adequately protect the interests of lenders/creditors. The Court also recorded that there is an impression that if a person could somehow be entangled in a criminal prosecution, there is a likelihood of imminent settlement. The Court, relying on the law laid down by it in the case of *G. Sagar Suri v. State of U.P.* held that any effort to settle civil disputes and claims, which do not involve any criminal offence, by applying pressure through criminal prosecution should be deprecated and discouraged. The Court also observed that though no one with a legitimate cause or grievance should be prevented from seeking remedies available in criminal law, a complainant who initiates or persists with a prosecution, being fully aware that the criminal proceedings are unwarranted and his remedy lies only in civil law, should himself be made accountable, at the end of such misconceived criminal proceedings, in accordance with law.*

*11. This Court, in the case of *Prof. R.K. Vijayasathy v. Sudha Seetharam* has culled out the ingredients to constitute the offence under Sections 415 and 420 of IPC, as under:*

*“15. Section 415 of the Penal Code reads thus:*

*“415. Cheating.—Whoever, by deceiving any person, fraudulently or dishonestly induces the person so deceived to deliver any property to any person, or to consent that any person shall retain any property, or intentionally induces the person so deceived to do or omit to do anything which he would not do or omit if he were not so deceived, and which act or omission causes or is likely to cause damage or harm to that person in body, mind, reputation or property, is said to “cheat”.”*



16. The ingredients to constitute an offence of cheating are as follows:

16.1. There should be fraudulent or dishonest inducement of a person by deceiving him:

16.1.1. The person so induced should be intentionally induced to deliver any property to any person or to consent that any person shall retain any property, or

16.1.2. The person so induced should be intentionally induced to do or to omit to do anything which he would not do or omit if he were not so deceived; and

16.2. In cases covered by 16.1.2. above, the act or omission should be one which caused or is likely to cause damage or harm to the person induced in body, mind, reputation or property.

17. A fraudulent or dishonest inducement is an essential ingredient of the offence. A person who dishonestly induces another person to deliver any property is liable for the offence of cheating.

18. Section 420 of the Penal Code reads thus:

**“420. Cheating and dishonestly inducing delivery of property.—** Whoever cheats and thereby dishonestly induces the person deceived to deliver any property to any person, or to make, alter or destroy the whole or any part of a valuable security, or anything which is signed or sealed, and which is capable of being converted into a valuable security, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.”

19. The ingredients to constitute an offence under Section 420 are as follows:

19.1. A person must commit the offence of cheating under Section 415; and

19.2. The person cheated must be dishonestly induced to

(a) deliver property to any person; or

(b) make, alter or destroy valuable security or anything signed or sealed and capable of being converted into valuable security.

20. Cheating is an essential ingredient for an act to constitute an offence under Section 420.”

12. A similar view has been taken by this Court in the cases of *Archana Rana v. State of Uttar Pradesh*, *Deepak Gaba v. State of Uttar Pradesh* and *Mariam Fasihuddin v. State by Adugodi Police Station*.

*13. It could thus be seen that for attracting the provision of Section 420 of IPC, the FIR/complaint must show that the ingredients of Section 415 of IPC are made out and the person cheated must have been dishonestly induced to deliver the property to any person; or to make, alter or destroy valuable security or anything signed or sealed and capable of being converted into valuable security. In other words, for attracting the provisions of Section 420 of IPC, it must be shown that the FIR/complaint discloses:*

*(i) the deception of any person;*

*(ii) fraudulently or dishonestly inducing that person to deliver any property to any person; and*

*(iii) dishonest intention of the accused at the time of making the inducement.” (Emphasis supplied)*

9. As referred above, it is not in dispute that power of attorney was executed/ registered on 09.09.2008, i.e., almost about 15 years ago. It is also not in dispute that Complainant has filed an application under Section 33/39 of U.P. Revenue Code wherein an order was passed in his favour and there was a stay. However, the effect of it, i.e., whether power of attorney could be executed or not, could have been decided by a Civil Court but execution of power of attorney was never challenged. It is not the case of Complainant that he was not aware about power of attorney. It is also not in dispute that a civil suit was filed between parties in the year 2012, which on basis of a compromise, was withdrawn. Execution of compromise has not been disputed though now it has been alleged that it was forgery. There was no challenge at the instance of Complainant either to execution of compromise or withdrawal of suit. It is further not in dispute that recently a civil suit has also been filed by Complainant with regard to property in question.

10. In aforesaid background, I find merit in argument of learned Senior Advocate appearing for applicant that even considering the above referred statement of complainant recorded under Section 161 Cr.P.C., the ingredients of above referred offences which are also discussed in **A.M. Mohan (Supra)** are not made out. There is no element that applicant has dishonestly induced the complainant to deliver any property as well as since power of attorney has not been challenged for last about 15 years before any

Civil Court, only on basis of statement of Complainant recorded under Section 161 Cr.P.C., offence under Sections 420 and 468 I.P.C. i.e., “cheating” and “forgery” are not even prima facie made out.

11. The contention of learned counsel for Opposite Party No. 4 has no legal substance as bare perusal of statement of Complainant recorded during investigation does not disclose that any offence referred was made out. Power of attorney is alleged to be a piece of forgery and cheating mainly it being irregular. No ingredients of offence such as deception of a person, fraudulently inducing any person to deliver any property and dishonest intention, are present. Similarly ingredients of forgery are also not made out since only allegation is that power of attorney could not be prepared due to a legal impediment and applicant was not empowered to execute it, which would fall short to make out an offence of forgery.

12. The investigation in present case appears to be conducted in a very casual manner, therefore, in this regard, reference of outcome of an inquiry conducted by Police Officer become relevant that it was a purely civil dispute. In this regard, an answer to a question of Investigating Officer given by Complainant also become relevant that:

*"प्रश्न... .. आपका वर्ष 2012 में माननीय न्यायालय में राजीनामा हो गया था उसके पश्चात आपने उक्त एफआईआर अंकित करायी है। ... .. उत्तर... . राजीनामा हमारा इस आधार पर हुआ था कि उक्त भूमि हरनाम सिंह व गंगा सिंह दोनों की थी। और आपसी बातें घर पर बैठकर कर लेंगे जिसमें हम भाईयों को अपना हिस्सा देने की बात मुँह जुबानी कही थी अब तक हिस्सा न देने और स्टे के बाद भी बैनामा कराने पर मेरे द्वारा यह एफआईआर दर्ज करायी थी।"*

13. In above background, Court takes note of observations made by Supreme Court in **A.M. Mohan (Supra)** that there is a growing tendency to conduct purely civil dispute into criminal cases and further observation that there is an impression that if a person could somehow be entangled in a criminal prosecution, there is a likelihood of imminent settlement and for

that the observations made by Supreme Court in **G. Sagar Suri v. State of U.P. (2000) 2 SCC 636** are also relevant.

14. In aforesaid circumstances, I find that it is a fit case where in exercise of inherent power under Section 482 Cr.P.C. the impugned charge-sheet and cognizance and summoning order can be quashed since it is an outcome of investigation which appears to be very casual in nature and as discussed above dispute between parties is of civil in nature, which could not be given a criminal angle, only to harass accused i.e., applicant as well as ingredients of offences levelled are not made out.

15. It would be appropriate to mention following paragraph of a judgment passed by Supreme Court in **Naresh Kumar and another vs. The State of Karnataka and another, 2024 INSC 196**, that in similar circumstances inherent power can be exercised:

*“6. In the case of Paramjeet Batra v. State of Uttarakhand (2013) 11 SCC 673, this Court recognized that although the inherent powers of a High Court under Section 482 of the Code of Criminal Procedure should be exercised sparingly, yet the High Court must not hesitate in quashing such criminal proceedings which are essentially of a civil nature. This is what was held:*

*“12. While exercising its jurisdiction under Section 482 of the Code the High Court has to be cautious. This power is to be used sparingly and only for the purpose of preventing abuse of the process of any court or otherwise to secure ends of justice. Whether a complaint discloses a criminal offence or not depends upon the nature of facts alleged therein. Whether essential ingredients of criminal offence are present or not has to be judged by the High Court. A complaint disclosing civil transactions may also have a criminal texture. But the High Court must see whether a dispute which is essentially of a civil nature is given a cloak of criminal offence. In such a situation, if a civil remedy is available and is, in fact, adopted as has happened in this case, the High Court should not hesitate to quash the criminal proceedings to prevent abuse of process of the court.”*

*Relying upon the decision in Paramjeet Batra (supra), this Court in Randheer Singh v. State of U.P. (2021) 14 SCC 626, observed that criminal proceedings cannot be taken recourse to as a weapon of harassment. In Usha Chakraborty & Anr. v. State of West Bengal & Anr. 2023 SCC OnLine SC 90, relying upon Paramjeet Batra (supra) it was again held that*

*where a dispute which is essentially of a civil nature, is given a cloak of a criminal offence, then such disputes can be quashed, by exercising the inherent powers under Section 482 of the Code of Criminal Procedure.”*

*(Emphasis supplied)*

16. In the result, application is allowed. Impugned charge sheet dated 30.08.2023, summoning order dated 22.09.2023 and all further proceedings in Case No. 4206 of 2023, arising out of Case Crime No. 0471 of 2023, under Sections 419, 420, 467, 468, 471 IPC, Police Station Kotwali, District Mainpuri, are hereby quashed.

17. Registrar (Compliance) to take steps.

**Order Date :-27.06.2024**

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