
(2009) 04 AHC CK 0053

Allahabad High Court (Lucknow Bench)

Case No: None

Vijay Kumar Trivedi

APPELLANT

Vs

State of U.P. and
Another

RESPONDENT

Date of Decision: April 13, 2009

Hon'ble Judges: A. Mateen, J

Bench: Single Bench

Judgement

A. Mateen, J.

Heard learned Counsel for the petitioner and Sri Anadi Bannerji, learned Counsel for respondent No. 2 as well as learned Additional Government Advocate.

2. By means of this petition u/s 482 Cr.P.C., the petitioner has approached this Court for quashing of Charge Sheet relating to case crime No. 208 of 2003 under Sections 406, 506, 420, 201, 120-B IPC of police Station Vikas Nagar, District Lucknow which culminated in the shape of proceeding after submission of charge sheet and is pending in the Court of Additional Chief Judicial Magistrate-I, Lucknow as Case No. 5133 of 2006.

3. I have gone through the charge sheet as well as the documents filed in the shape of evidence.

4. It has first been submitted by learned Counsel for the petitioner that the in the matter which erupts from the aforesaid crime number, twice the police had submitted final report, but the matter was further investigated by the police, which ultimately culminated in the shape of charge sheet. Grave stress has been laid by learned Counsel for the petitioner that it will amount to "re-investigation" and not "further investigation". When asked for, he was not able to point out that there was any order with respect to reinvestigation of the case.

5. It is the prerogative of the State Government u/s 173 (8) Cr.P.C. and the matter can be reinvestigated at any point of time for which there is no bar.

6. The other limb of argument of learned Counsel for the petitioner is that there is no sufficient evidence on record so as to allow the learned Magistrate concerned to take cognizance of the aforesaid case in the aforesaid sections.

7. Without commenting any further with respect to the sufficiency or insufficiency of material on record to enable the Magistrate concerned to take cognizance of the case, I direct that the petitioner shall approach the court concerned and move application u/s 239 Cr.P.C. taking such points as have been raised in the petition before this Court within 25 days from today, and if such an application is moved, the Court concerned shall proceed with the case after deciding said application in accordance with law.

8. If such an application is moved by the petitioner within the time granted above, the petitioner shall not be arrested in connection with above case crime number.

9. It is made clear that if the petitioner fails to abide by the time schedule as provided above for moving application u/s 239 Cr.P.C., benefit of this order shall not be available to him and the court below shall proceed with the case in accordance with law.

10. With the above observations/directions, the petition is finally disposed of.