

Court No. - 50

Case :- CRIMINAL MISC. WRIT PETITION No. - 21393 of 2014

Petitioner :- Rajeev Agrawal

Respondent :- State Of U.P. And Another

Counsel for Petitioner :- Aklank Jain,H.N. Singh

Counsel for Respondent :- Govt.Advocate

Hon'ble Vijay Prakash Pathak,J.

Heard Sri H.N.Singh, learned Senior Advocate assisted by Sri Aklank Jain, counsel for the petitioner well as learned AGA.

Present petition has been filed with the prayer to issue writ, order or direction in the nature of Certiorari quashing the order dated 20.08.2014 passed by Addl.District & Session Judge, Court no.9, Badaun dismissing the Criminal Revision No.329 of 2013 (Rajeev Agarwal Vs. State of U.P. & another) filed by the petitioner against the order dated 25.05.2013 passed by JM-II, Badaun in Complaint Case No.1151 of 2011(Ishtyaq Ahmad Vs. Vikas Co. & others) by which the petitioner along with another co-accused has been summoned for the offences under Sections 420, 323, 504 IPC.

Learned counsel for the petitioner has mainly contended that the matter relates to purely civil in nature in respect of an agreement regarding purchasing of a truck on loan and no offence is made out against the petitioner but the learned Magistrate has illegally summoned him along with another co-accused for the offences under Sections 420, 323, 504 IPC without considering entire material on record and the learned lower revisional court has also illegally dismissed the revision filed by the petitioner against the said order without considering the entire material on record.

On the other hand, learned AGA submitted that the petitioner may move discharge application under Section 245(2) Cr.P.C. before the Magistrate concerned raising all his contentions as raised by him hereinabove and the same may be decided by the court concerned in accordance with law.

Considering the entire facts and circumstances of the case and all other material on record, it is provided that if the petitioner raises his entire contentions and objections as raised above by way of moving discharge application under Section 245(2) Cr.P.C.through counsel within three weeks from today before the court concerned, the same shall be decided by the court concerned after hearing both the parties within two months thereafter by a reasoned and speaking order

For a period of three months from today or till the disposal of the discharge application moved by the petitioner, whichever is earlier, no coercive action shall be taken against him.

With the aforesaid observations, this petition is disposed of finally.

Order Date :- 24.11.2014

SM