

**Case :-** APPLICATION U/S 482 No. - 20188 of 2020

**Applicant :-** Naseer Ahmad Khan

**Opposite Party :-** State of U.P. and Another

**Counsel for Applicant :-** Sadaful Islam Jafri, Khalid Mahmood, Nazrul Islam Jafri (Senior Adv.)

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

**Hon'ble Om Prakash-VII, J.**

Present application under Section 482 CrPC has been filed by the applicant with the prayer to quash the charge sheet as well as the entire proceedings of the Special Case No. 109 of 2019, arising out of case crime no. 261 of 2019, under Sections 420, 447, 120-B IPC, P.S. Azeem Nagar, District Rampur pending before Special Judge, (MP/MLA)/ Additional Sessions Judge, Rampur and further to stay the further proceedings of the said case.

Heard Shri N.I. Jafri, learned Senior Counsel assisted by Shri Sadaful Islam Jafri, learned counsel for the applicant and Shri Vinod Diwakar, learned Additional Advocate General, U.P., Supreme Court of India assisted by Shri Jai Narain, learned AGA-I on behalf of State.

It was submitted by the learned counsel for the applicant that applicant is innocent and has not committed the alleged offences. No prima facie case is made out against the applicant in the matters. Cognizance taken on the charge sheet is illegal and without application of judicial mind. Applicant was not named in the F.I.R.. He was implicated in these cases only being the Member / Secretary / Joint Secretary of the Trust in question and charge sheets have also been submitted for the aforesaid grounds. No active role has been assigned in the F.I.R. against the applicant. Referring to the contents of the F.I.R. it was further submitted that F.I.R. was lodged only against Mohammad Azam Khan and one Aale Hasan, the then Circle Officer. It was further submitted that neither the applicant participated in execution of sale-deeds nor extended threat to the informants, as is clear from the version of the F.I.Rs. itself. It was next contended that in the similar situation, some of the co-accused approached this Court invoking its inherent jurisdiction under Section 482 CrPC for quashing the charge sheets and this Court in the said matters issued notices and stayed further proceedings of the criminal case pending before the Court below. In support of his submissions, learned counsel for the applicant placed

reliance on the decision of the Apex Court in ***Criminal Appeal No. 125 of 2020, arising from SLP (Crl.) No. 590 of 2019, (Sushil Sethi and another vs. The State of Arunachal Pradesh and others)***, decided on 31.1.2020 and ***Criminal Appeal No. 238 of 2019, Special Leave Petition (Crl) No. 1434 of 2018 (Prof. R.K. Vijayasaraty and another vs. Sudha Seetharam and another)***, decided on 15.2.2019.

On the other hand, learned Additional Advocate General, U.P., Supreme Court of India submitted that from the material available on record, a prima facie case is made out against the applicant. It was next contended that all the ingredients of the alleged offences are available in the present matter against the applicant. At this juncture, learned Additional Advocate General also referred to the provisions of Sections 420, 447 and 120-B IPC and submitted that applicant was active Member / Secretary / Joint Secretary of the Trust in question. Properties of the informants were grabbed by the Trust concerned in collusion with the applicant. He did not raise any objection at any point of time, hence, there is no infirmity, illegality or perversity in the impugned orders warranting interference by this Court. It was further submitted that since cognizance has been taken in the matter and Court below dealing with the matter has to see only a prima facie case and applicant has every right to raise all the issues as raised in this application at the time of framing of charge before the trial court, it will not be just and appropriate to exercise the inherent power / jurisdiction vested in this Court at this stage. In support of his submissions, learned Additional Advocate General placed reliance on a decision of the Apex Court in ***Dineshbhai Chandubhai Patel vs The State Of Gujarat and others, 2018 (3) SCC 104.***

Matter requires consideration.

Learned AGA has accepted notice for opposite party no. 1.

Issue notice to the opposite party no. 2.

Steps be taken by Registered Post A.D. within a week.

Let a detailed counter affidavit be filed within three weeks. Rejoinder affidavit may be filed within a week thereafter.

List this case on **23.3.2021** before the appropriate Bench.

Till the next date of listing, further proceedings of Special Case No. 109 of

2019, arising out of case crime no. 261 of 2019, under Sections 420, 447, 120-B IPC, P.S. Azeem Nagar, District Rampur pending before Special Judge, (MP/MLA)/ Additional Sessions Judge, Rampur, shall remain stayed against the applicant.

The party shall file self-attested computer generated copy of this order downloaded from the official website of High Court, Allahabad. The concerned Court / Authority / Official shall verify the authenticity of such computerized copy of the order from the official website of High Court Allahabad and shall make a declaration of such verification in writing.

**Order Date :- 18.2.2021**  
safi