
(1997) 09 AHC CK 0104

In the Allahabad High Court

Case No : Criminal Miscellaneous Writ Petition No. 22895 of 1994

Bhagwan Swarup Sharma

APPELLANT

Vs

State of U.P.and Others

RESPONDENT

Date of Decision : 09-09-1997

Acts Referred:

Penal Code, 1860 (IPC) — Section 420

Citation : (1997) 09 AHC CK 0104

Hon'ble Judges : Giridhar Malaviya, J and B.K.Sharma, J

Final Decision : Dismissed

Judgement

1. Heard learned Counsel for the petitioner and perused the first information report relating to Crime No. 156 of 1994, under Section 420, I.P.C. A perusal of the said first information report indicates commission of crime of embezzlement by the petitioner. This Court, consequently, cannot quash the first information report.

2. Learned Counsel for the petitioner contended that since he had alleged mala fides in this case, consequently, this Court on 2271994 had asked for a counteraffidavit and since no counteraffidavit is filed, the petition be admitted. It may be stated here that once a criminal case is instituted against a particular person, then in view of the large number of decisions by the Privy Council and that of the Supreme Court and this Court, this Court has only to see whether on the facts stated in the first information report, some criminal offence is disclosed or not? It is thereafter for the investigating officer to see whether the allegations in the first information report are true or whether they have been made against the petitioner due to mala fides or whether no case is made out after investigation as evidence collected may not substantiate the contents of the first information report ? This Court in its writ jurisdiction under Article 226 of the Constitution of India cannot undertake this exercise.

3. There is no merit in this petition. It is accordingly dismissed. Stay order granted on 2271994 is hereby vacated.