

SL. No	Date	Office Notes, reports, orders or proceedings or directions and Registrar's order with Signatures	COURT'S OR JUDGES'S ORDERS
			C482 No.1675 of 2023 <u>Hon'ble Sharad Kumar Sharma, J.</u> Mr. Raj Kumar Singh, learned counsel for the applicant. Mr. V.K. Gemini, learned Deputy Advocate General for the State. Ms. Neeti Rana, learned counsel for the private respondent. There are three fold arguments which had been extended by the learned counsel for the applicant. Initially, he has drawn the attention of this Court to the summoning order as it was issued by the Court on 17.05.2023. In fact, while taking cognizance and summoning the accused person, it seems that the first paragraph of the order of 17.05.2023 has been copy-pasted by the Special Judge(SC/ST Act)/ 5th Additional Session Judge, District Dehradun carelessly. The Special Judge(SC/ST Act)/ 5th Additional Session Judge, District Dehradun, is required to furnish his reply as to how paragraph no.1 in the summoning order dated 17.05.2023 has been incorporated. Because in judicial cadres there is no scope of careless mistakes.

			The reply is to be submitted through the Registry, within a period of two weeks from today. Based on the said observation, the learned counsel for the applicant tried to take a recuse that since the summoning order is without application of mind, no offence could be said to be made out against him. But the same has been opposed by the respondent, contending therein that since in the third paragraph of the summoning order where it refers to the name of the present applicant, it refers to the other evidences too, which has been considered by the Court concerned for the purpose of issuing of the summoning order, and it relates to the commission of offence under Section 376, 504 of the IPC and Section 3(1)(d) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act. Learned counsel for the applicant has raised a theory of improbability, that it cannot be thought of that a person of 72 years of age, like that of the present applicant, would at all indulge himself in commission of offence under Section 376 of the IPC. In fact, this philosophy, as argued, it apparently seems to be laudable, but not
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		practical and even if, it has got any bearing, it is still to be tried by the learned trial Court, by coming to a conclusion as to whether there could be a probability of commission of offence under Section 376 of the IPC, under the circumstances, as narrated in the FIR, because of the allegation of a similar nature of offence being committed by the applicant with another lady Anita Uniyal, and the offence pertaining to payment of money made to the counsel to enable the complainant to get the divorce from her earlier husband, these all entail a consideration of evidence by the trial Court which could be appreciated, based upon the respective case to be developed by the parties before it, supported by evidence. Even if, partial dropping of the proceedings, as prayed for with regards to the commission of offence under Section 3(1)(ix) of the SC/ST Act is concerned, the FIR exclusively refers to that the applicant has used the abusive language, and has also used caste related expression, which too would entail a consideration of evidence which is to be decided on merit by the learned trial Court. Appreciation of evidence is not a scope, which could be ventured under Section 482 of the Cr.P.C., which is being normally
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			attempted to before the Court. The C482 Application does not entail consideration of any question of law to vitiate the proceedings of Special Sessions Trial No.8 of 2023, “State Vs. Mohan Lal Nautiyal”. Hence, while dismissing this C482 Application, it will be open for the applicant to surrender before the Sessions Judge concerned and, if he does so, his bail application may be considered expeditiously. This C482 Application is, accordingly, stands dismissed. (Sharad Kumar Sharma, J.) 23.08.2023 Sukhbant
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