

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. 1777 of 2023 <u>Hon'ble Sharad Kumar Sharma, J.</u> Mr. Ajay Joshi, Advocate for the applicant. Mr. V.K. Gemini, Dy. A.G. for the State. The present applicants are the opposite parties to the proceedings of Criminal Case No. 1670 of 2022, Navi Ahmed vs. Prakash Chandra Joshi & Ors. Initially, the complaint, thus registered was rejected by the Court of Addl. Chief Judicial Magistrate, Haldwani, by an order dated 24.09.2022,. The rejection order was put to challenge by the applicant of the complaint proceedings in Criminal Revision No. 183 of 2022, Navi Ahmed vs. Prakash Chandra & Ors. Consequently, the Revisional Court by an order of 08.08.2023, had allowed the revision, and had remanded back the matter to the court of Addl. Chief Judicial Magistrate to reconsider the Criminal Case No. 1670 of 2022, Navi Ahmed vs. Prakash Chandra & Ors., and pass an appropriate order on the same. There are two-fold arguments which are extended by the learned counsel for the applicants, that the Revisional Court's order is bad from the following perspective; one that the observation made by the court in para 7, that the order of the Trial Court suffers from a judicial defect, because the statement of PW4 was not considered, is contrary to the findings which has been recorded in the complaint's order, passed by the court and, as such, the finding of Revisional Court is perverse. In elaboration of his argument, and to override the said observation made by the Revisional

		Court, the learned counsel for the applicant has drawn attention of this Court to para 5 of the order passed on 24.09.2022, as passed by the Court of Addl. Chief Judicial Magistrate where a general assertion has been made, which is a common feature normally it occurs in each and every judgment rendered by the Court that entire material has been considered. Consideration of entire material as referred to in para 5, it means that there has had to be a judicial scrutiny of a document while passing any order finally on merits on a complaint as to what impact the statement of PW4 would have on the complaint proceeding, having not done so, the para 5 would not be an answer to the observation made in Revisional Court's order in para 7. Thus, this argument is turned down. Second argument as extended by the learned counsel for the applicant is that the complaint was rejected, and the revisional court has remitted the matter back to re-decide the matter. The observation has been made therein that the parties would appear before the court on 16.08.2023. The learned counsel for the applicant reads this order as if being the order of appearance on 16.08.2023, as the order of summoning the present applicants. This argument is too a misconception, because once it is an order of remand, the fixation of date of 16.08.2023, before the Trial Court is only procedural in nature, because the Court is yet to decide the complaint on its merit after recording the statement or considering the statement which has already been recorded, and the observation made of appearance on 16.08.2023 cannot construed as to be read as an order of summoning. Since, being an order of remand the complaint is still to be decided on merits, the
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			court of Addl. Chief Judicial Magistrate, Haldwani is expected to decide the complaint itself on its merit in accordance with law. Thus, I do not find any merit in the C482 application. The same accordingly stands dismissed. (Sharad Kumar Sharma, J.) 05.09.2023 PV
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