

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.1888 of 2023 <u>Hon'ble Sharad Kumar Sharma, J.</u> Mr. D.N. Sharma and Ms. Manju Bahuguna, learned counsel for the applicant. Mr. B.C. Joshi, learned Assistant Government Advocate for the State. The applicant puts a challenge to the proceedings of Criminal Case No.2165 of 2023, "State Vs. Mahesh Kumar Aggarwal", for his alleged involvement in commission of offences under Section 279, 304-A, 427 and 201 of the IPC contending therein that on the date when the accident had chanced, he was not the owner of the vehicle because the same has already been handed over to the competent authority for declaring it as to be scrap and the same was not being utilized by him when the alleged offence was committed, coupled with the fact, that he contends, that he has been falsely implicated in the commission of offence, and as such, no charge of offence is made against him 'with an intent to cause an injury', would be in violation of the provisions contained under Section 211 of the IPC.

		Learned counsel for the applicant submits that no liability could be fastened upon him, owing to the accident, which has chanced resulting into the death of late Mr. Vipin Kumar, who was said to be travelling on a motorcycle and met with an accident on 06.01.2021. Owing to the fact, and the tenacity of the argument of the learned counsel for the applicant qua the disposal of the vehicle for being declared as a scrap as per the agreement dated 13.11.2020, the said process of handing over of the vehicles is in contravention to the provisions of the Motor Vehicles Act, and the same cannot be read and appreciated by this Court by way of an evidence in the exercise of my powers under Section C482 of the Cr.P.C. All these aspects, as to what impact would the agreement have for the purpose of handing over the vehicle for being declared as to be a scrap, which was an offending vehicle causing an accident on 06.01.2021, all these aspects are required to be dealt with by the trial Court, which has summoned the present applicant by an order of 16.08.2023. The learned counsel for the applicant argues that the summoning order dated
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		16.08.2023 is rather a cyclostyled order and the learned Chief Judicial Magistrate, District Udham Singh Nagar, has not applied its mind while passing the summoning order. In fact, this Court is not in agreement with the argument extended by the learned counsel for the applicant, for the reason being, that summoning of an accused person for facing a criminal trial does not intend an elaborate deliberation, on the evidence, which is being relied upon by the trial Court justifying summoning of an accused as a principle, which has been enunciated by the Hon'ble Apex Court in the judgment of Bhushan Kumar and Another Vs. State (NCT of Delhi) and Another as reported in 2012 (5) SCC 424, and, in accordance with the observations made in paragraph no.13 and 14 of the said judgment, it only prescribes that the process, which has to be issued by the Court calling upon a person to appear, should apparently show that the Court has applied its mind but it does not mean that an explicit and detailed deliberation is required to be made expressing an opinion by the Magistrate on merits justifying the necessity of summoning of an accused person. The relevant paragraphs are extracted hereunder:-
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“13. Section 204 of the Code does not mandate the Magistrate to explicitly state the reasons for issuance of summons. It clearly states that if in the opinion of a Magistrate taking cognizance of an offence, there is sufficient ground for proceeding, then the summons may be issued. This section mandates the Magistrate to form an opinion as to whether there exists a sufficient ground for summons to be issued but it is nowhere mentioned in the section that the explicit narration of the same is mandatory, meaning thereby that it is not a prerequisite for deciding the validity of the summons issued.

14. Time and again it has been stated by this Court that the summoning order under Section 204 of the Code requires no explicit reasons to be stated because it is imperative that the Magistrate must have taken notice of the accusations and applied his mind to the allegations made in the police report and the materials filed therewith.”

The logic, which has been assigned by the Hon’ble Apex Court, is that a ‘sufficient reason’ should not be alternatively read as to be a good reason for summoning of an accused person.

Thus, in the light of the observations made by the Hon’ble Apex Court in paragraph 13 and 14 of the said judgment as extracted above, this argument of the leaned counsel for the applicant with regards to the propriety of the summoning order, dated 16.08.2023, being without application of mind, is not acceptable by this Court.

Thus, this C482 Application is not required to be ventured into by this Court while exercising the inherent powers. The

		same is, accordingly, liable to be dismissed. However, all questions of facts, which have been attempted to be argued by the learned counsel for the applicant before this Court, at the stage of C482 Application, would still be left open for him to be argued when he faces the trial of the Criminal Case No.2165 of 2023, “State Vs. Mahesh Kumar Aggarwal”. Subject to the aforesaid, the C482 Application stands dismissed. (Sharad Kumar Sharma, J.) 21.09.2023 Sukhbant
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