

SL. No	Date	Office Notes, reports, orders or proceedings or directions and Registrar's order with Signatures	COURT'S OR JUDGES'S ORDERS
	<u>01.11.2023</u>		C482 No. 2109 of 2023 <u>Hon'ble Sharad Kumar Sharma, J.</u> Mr. Ajay Joshi, Advocate, for the applicant. Mr. V.K. Jemini, Deputy Advocate General, for the State. The applicant in the C482 Application has put a challenge to the proceedings of Criminal Case No. 1226 of 2023, State Vs. Himanshu Badoni, being the proceedings on which the cognizance have been taken and consequently, a summoning order has been issued for trying the applicant for the offence under Section 323, 504 and 506 of IPC. When the arguments were initiated, learned counsel for the applicant made reference:- (i) As to whether the cognizance order under Section 190 of CrPC is required to be rendered by way of a reasoned order or not? (ii) Whether the Court exercising powers under Section 482 of CrPC is required to minutely scrutinise the allegations levelled based on scrutiny of evidence, in the FIR and the surrounding circumstances under which it has been registered. Learned counsel for the applicant further argued that the summoning order has been issued in a formatted form which itself reflects that the Court has not applied its mind, justifying the necessity of summoning

			the accused person. After concluding the arguments and upon the learned Government Advocate being called upon to justify the summoning order as to how the summoning order could at all be sustained when no reason has been assigned by the Court for summoning an accused person. Learned Government Advocate referred to the judgment of Bhushan Kumar and another Vs. State (NCT of Delhi) and another, as reported in 2012 (5) SCC 424, that a detailed deliberation is not required to be made. Partly, he may be correct; but, so far as the summoning order in the instant case is concerned, once it's a formatted order and merely it refers to that the Court has taken into consideration the entire material, that itself may not be an inference that the material which has been considered was in the context of the case for which the summoning order had been issued. On this limited count itself, the parties to the C482 Application agreed that since the summoning order is a formatted order, which is not sustainable as it doesn't reflect an application of mind in the context to the case for which the summons had been issued. The summoning order dated 03.03.2023 as passed in Criminal Case No. 1226 of 2023, State Vs. Himanshu Badoni, would hereby stand quashed and, the matter is remitted back to the Court of Additional Chief Judicial Magistrate, Kotdwar, District Pauri Garhwal, to pass a reasoned order afresh after considering the material on
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			record, justifying the necessity of summoning the accused person, the applicant herein, for the aforesaid offences. Subject to the aforesaid, the C482 Application is partly allowed, so far it relates to the summoning order and the matter is remitted back to the trial Court for necessary compliance, as directed above. (Sharad Kumar Sharma, J.) 01.11.2023 Mahinder/
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