

Court No. - 80

Case :- CRIMINAL APPEAL No. - 4203 of 2021

Appellant :- Anuj Tiwari And Another

Respondent :- State of U.P. and Another

Counsel for Appellant :- Mayank Kumar Gupta, Amit Kumar Verma

Counsel for Respondent :- G.A.

Hon'ble Subhash Chandra Sharma, J.

Heard learned counsel for the appellants, learned A.G.A. for State and perused the record.

This criminal appeal has been filed by the appellants with prayer to set aside the impugned order dated 21.10.2020 passed by Special Judge S.C./S.T. Act, Kanpur Nagar in Session Case No. 1004 of 2020 in pursuance of the charge sheet dated 13.5.2020 arising out of Case Crime No. 56 of 2020, under Sections 323, 504, 506 IPC and 3(1)(Dha) of SC/ST Act, Police Station Panki, District Kanpur Nagar.

It is submitted by learned counsel for the appellants that in this case after investigation, charge sheet was filed by the police under sections 323, 504, 506 I.P.C and Section 3(1)(Dha) SC/ST Act. On the basis of which cognizance was taken by the learned Special Judge (SC/ST Act) by order dated 21.10.2020 without applying its judicial mind on printed proforma which cannot be said to be lawful but is liable to be set aside.

On the other hand, learned AGA opposed the aforesaid prayer.

Considering the facts and circumstances of the case, submissions made by learned counsel for the appellants as well as learned A.G.A and perusal of record including the order in question dated 21.10.2020, it appears that this order was passed on printed proforma by the learned Presiding Officer which cannot be said to have been passed by applying the judicial mind and on the basis of material on record. Therefore, it cannot be said to be sustainable in the eyes of law, as a result the order dated 21.10.2020 by which the learned court concerned has taken cognizance of the offence is hereby set aside and this appeal is allowed with the direction to the learned court concerned to pass the order afresh after applying its judicial minds, in accordance with law.

Accordingly, the appeal is *allowed*.

Order Date :- 1.12.2023

G.S