

Court No. - 80

Case :- CRIMINAL APPEAL No. - 6145 of 2023

Appellant :- Akhilesh Yadav And Another

Respondent :- State Of U.P. And 2 Others

Counsel for Appellant :- Vidya Dhar Yadav

Counsel for Respondent :- G.A.,Mahendra Kumar Sharma

Hon'ble Subhash Chandra Sharma,J.

Counter affidavit filed by learned counsel for the respondents is taken on record.

Heard learned counsel for the appellants, learned counsel for the respondents as well as learned A.G.A. and perused the material on record.

This present criminal appeal has been filed with a prayer to allow the present criminal appeal and quash the charge sheet No. A-17/23 dated 22.02.2023 cognizance taking order and summoning order dated 03.05.2023 and further proceeding in pursuance thereof passed by learned Special Judge S.C./S.T. Act, Mirzapur in Special Sessions Trial No. 475 of 2023 (State Vs. Akhilesh Yadav and another) in Case Crime No. 179 of 2022 under Sections 323, 504 I.P.C. read with under Section 3(2)(Va) S.C./S.T. Act, Police Station Jigna, District Mirzapur.

It is submitted by learned counsel for the appellants that in this case after investigation charge sheet was filed before the learned court concerned and by order dated 03.05.2023 cognizance was taken by learned Special Judge S.C./S.T. Act which shows that the script was written by some ministerial staff and signature was made by the Presiding Officer himself. It shows that while taking cognizance of the offence no judicial mind was applied by the learned Special Judge, therefore the order dated 03.05.2023 cannot be said to be lawful and is likely to be set aside.

Learned counsel for the respondents as well as learned A.G.A. opposed the prayer as aforesaid but could not dispute the fact that the script was written by some other person except the signature of the learned Special Judge.

Considering the facts and circumstances of the case, submissions made by learned counsel for both the parties as well as learned A.G.A. for the State, perusal of record, including the order passed by learned Special Judge on 03.05.2023 it is apparent that the script of the order has been written by some other person and signature has only been made by the Presiding Officer on it with the date. In such a situation it cannot be said that this order was passed by the learned Presiding Officer by applying its judicial mind on the basis of material on record collected during the course of investigation by the I.O. Hence the order dated 03.05.2023 being illegal cannot sustain in the eyes of law, as a result the order passed by learned Special Judge dated 03.05.2023 is hereby set aside and appeal is ***allowed*** with direction to the learned court concerned to pass the order afresh after applying its judicial mind in accordance with law.

Order Date :- 8.12.2023

Suraj Srivastav