

Court No. - 91

Case :- APPLICATION U/S 482 No. - 7378 of 2008

Applicant :- Satya Mohan Pandey And Another

Opposite Party :- State of U.P. and Another

Counsel for Applicant :- Chandra Bhan Gupta

Counsel for Opposite Party :- Govt. Advocate, R.K. Singh.
Rajput

Hon'ble Gajendra Kumar, J.

1. List has been revised.
2. Heard learned counsel for the applicant and no one appears on behalf of opposite party no.2 despite service of notice.
3. It is submitted by learned counsel for the applicant that on the basis of false and frivolous allegation a complaint has been filed by the opposite party no.2 (deceased) and in a mechanical way the learned Magistrate has summoned the applicants vide order dated 02.04.2007. It is further submitted that initially vide order dated 05.11.2004 learned Magistrate has dismissed the complaint under Section 203 Cr.P.C against which criminal revision No.289 of 2006 (Shri Krishan Verma Vs. State of U.P) was filed and vide order dated 20.01.2007 the impugned order dated 19.09.2006 was dismissed and the case was remanded to pass fresh order. In pursuance of the order dated 20.01.2007 the Judicial Magistrate Court No.11 Farukhabad has passed this impugned order dated 02.06.2007 without application of mind in a mechanical way as no satisfaction is recorded that prima facie, case is made out advertently to material/ evidence collected during the enquiry. The order has been passed only citing the observation made by the revisional court to the effect that the complainant has supported his complaint case and has produced impartial witnesses. The learned trial court has passed the impugned order while observing that in view of the order passed by the revisional court opposite parties Satya Mohan Pandey and Sanjay Gupta are summoned for the offence under Section 500 I.P.C. From the impugned order it is not reflected what material/ evidence the court has adverted to and arrived at the satisfaction, the order has been passed is non speaking one which cannot be sustained in the eyes of law.
4. Learned A.G.A has opposed the prayer but could not dispute the

aforesaid facts. In view of the above, impugned order dated 02.06.2007 is set aside/ quashed, with a direction to trial court to pass the order afresh after considering the available material/ evidence on record and the satisfaction is to, prima facie, case against the accused persons is made out to prosecute.

5. Accordingly, application is disposed of.

Order Date :- 27.10.2023

A Gautam