

Court No. - 91

Case :- APPLICATION U/S 482 No. - 34861 of 2023

Applicant :- Sushil Kumar

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

Counsel for Applicant :- Krishna Murari Tripathi

Counsel for Opposite Party :- G.A.

Hon'ble Gajendra Kumar,J.

1. Heard learned counsel for the applicant through video conferencing and learned A.G.A. for the State.

2. By means of instant application under Section 482 Cr.P.C, the applicants seeks to quash the charge sheet dated 09.03.2019 in Case No.221 of 2019 (State vs. Sushil Kumar) arising out of Case Crime No.157 of 2018, Under Section 406 IPC & 138 N.I. Act, Police Station- Dildarnagar, District- Ghazipur, pending in the court of Judicial Magistrate, Court Room No.9, Ghazipur and further prayer to pass fresh order in the aforesaid case has been made.

3. It is submitted by learned counsel for the applicant that Magistrate concerned has taken cognizance on the charge sheet submitted by I.O. after completion of the investigation under section 406 IPC & 138 N.I. Act. It is further submitted that the impugned order is cryptic one and has been passed without application of mind even the date on which the cognizance has been taken by the learned Magistrate has not been mentioned in the order. The manner in which the proceedings have been carried out is nothing but abuse of process of court.

4. Per contra, learned A.G.A. has opposed the prayer but could not dispute the aforesaid facts.

5. In view of above, from the perusal of the cognizance/ summoning order annexed at page 53 of the paper book, it is apparent that there is no narration of the facts given in the order. The order is cryptic and non-speaking without application of mind even the date is not mentioned on which the cognizance has been taken and summons have been issued.

6. Thus, the impugned cognizance/ summoning order is hereby set-aside. The matter is remanded back to the trial court concerned to decide the matter afresh in accordance with law, within a period of two months from the date of production of certified copy of this order.

7. With the aforesaid observations, the application stands **disposed of**.

Order Date :- 16.10.2023

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