

Court No. - 80

Case :- CRIMINAL APPEAL No. - 8978 of 2023

Appellant :- Shrinath Prajapati

Respondent :- State of U.P. and Another

Counsel for Appellant :- Awadh Sharma, Shyam Lal Prajapati

Counsel for Respondent :- G.A., Jitendra Kumar Shukla

Hon'ble Subhash Chandra Sharma, J.

Heard learned counsel for both the parties and perused the record.

This appeal has been filed by the appellant with a prayer to allow this appeal and set aside the impugned summoning order dated 17.7.2023 passed by learned Special Judge (SC/ST Act) Mirzapur in Special Session Trial No.700 of 2023 arising out of Case Crime No. 34 of 2023, police station Madihan, District Mirzapur.

It is submitted that in this case after investigation, charge sheet was filed before the learned court concerned but without applying its judicial mind, the court has taken cognizance by order dated 17.7.2023 which shows that it was written by ministerial staff and only initial signature was made by the learned Judge which cannot ensure that judicial mind was applied by the learned Presiding Officer while passing the order relating to taking of cognizance of the offence on the basis of material on record. In this way this order being illegal is liable to be set aside and appeal be allowed.

Learned A.G.A opposed the prayer as aforesaid but could not dispute the fact that the contents of the order have been transcribed by ministerial staff and only initial has been made by the learned court/ judge.

Considering the facts and circumstances of the case, submissions made by learned counsel for the parties and perusal of record as well as order dated 17.7.2023 passed by learned Special Judge (SC/ST Act) Mirzapur, it appears that learned Special Judge (SC/ST Act) Mirzapur has not applied its judicial mind while passing the order for cognizance but contents have been transcribed by ministerial staff and he made his initial signature on it which cannot infer the application of judicial mind, as a result the order passed by learned court concerned is illegal and is hereby set aside. This appeal is allowed with the direction to the court concerned to pass the order afresh, in accordance with law.

Order Date :- 8.12.2023

G.S