

Court No. - 89

Case :- APPLICATION U/S 482 No. - 33610 of 2023

Applicant :- Virendra Singh And 3 Others

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

Counsel for Applicant :- Anurag Pathak,Rajiv Kumar Mishra,Shyamal Kumar Prayagi

Counsel for Opposite Party :- G.A.,Shailendra Kumar Tripathi

Hon'ble Deepak Verma,J.

1. Supplementary Affidavit filed today is taken on record.

1A. Heard learned counsel for the applicants as well as learned A.G.A. for the State and perused the record.

2. This application under Section 482 Cr.P.C. has been filed by the applicant to quash the entire proceeding in Case No.888 of 2023, pending before the learned A.C.J.M, Chhibra Mau, Kannauj in pursuance of the charge sheet dated 22.6.2023 and cognizance taken thereon by the learned Magistrate arising out of FIR dated 14.04.2023, vide Case Crime No.258 of 2023, under sections 323, 504, 506 & 386 IPC registered at P.S. Kotwali Chibra Mau, District Kannauj, U.P.

3. It is submitted by learned counsel for the applicants that impugned cognizance/summoning order has been passed on a printed proforma by filling the blanks and it has been passed without application of judicial mind and as such, it is not sustainable in the eyes of law. Learned counsel for the applicants has placed reliance on the judgment of this Court in the case of ***Ankit Vs. State of U.P. and another, reported in 2009(9) ADJ page 778.***

4. On the basis of aforesaid judgment, it has been submitted by learned counsel for the applicants that summoning of accused in criminal case is a serious matter and the order impugned reflects that the Magistrate had not applied its judicial mind, as in the present case the impugned cognizance/summoning order has been passed on printed proforma, which clearly indicates that the same has been passed without applying judicial mind and the learned Magistrate only put its signature at the bottom of order.

5. On the other hand, learned AGA has submitted that summoning order has been passed by the learned Magistrate after considering

the material which are available on record, but he could not dispute the fact that the order taking cognizance has been passed on the printed proforma.

6. The present case is finally decided at the admission stage itself without issuing notice to the opposite party no.2.

7. From bare perusal of impugned cognizance/summoning order, it is apparent that it has been passed on a printed proforma by filling the blanks and it appears that the blanks were filled up by some staff of the concerned Magistrate and the concerned Magistrate has only put its initial at the bottom of summoning order.

8. The law on this point is well settled that prior to taking cognizance and issuing summons to the accused-persons, the concerned Magistrate has to apply its judicial mind and that the cognizance/summoning order cannot be passed in a mechanical manner.

9. In view of above, since impugned cognizance/summoning order has been passed on a printed proforma by filling the blanks without application of judicial mind and as such, it is not sustainable in the eyes of law.

10. Accordingly the application under section 482 Cr.P.C. is **allowed**. The impugned cognizance/summoning order dated **11.07.2023** is hereby quashed.

11. The concerned Magistrate is directed to pass a fresh order regarding cognizance as well as summoning of the applicant in the aforesaid case in accordance with law, after applying its judicial mind within a period of one month from the date of production of a copy of this order.

Order Date :- 26.10.2023
SFH