

Court No. - 89

Case :- APPLICATION U/S 482 No. - 34864 of 2023

Applicant :- Varsha Devi @ Varsha Shukla And 7 Others

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

Counsel for Applicant :- Ajit Narain Mishra, Sunil Kumar Pandey

Counsel for Opposite Party :- G.A., Mukesh Kumar

Hon'ble Deepak Verma, J.

1. Heard learned counsel for the applicant, Mr. Mukesh Kumar, learned counsel for opposite party and learned AGA for the State and perused the record.

2. The present 482 Cr.P.C. application has been filed to set aside the order dated 02.03.2023 passed by Special Judge SC/ST Act, III Additional District & Sessions Judge, Farrukhabad in Criminal Revision No. 283 of 2022 (Nitin Kumar Mishra Vs. State of U.P. and others) and also set aside the impugned order dated 01.11.2022 passed by the Judicial Magistrate, Court No. 5, Farrukhabad in Complaint Case No. 461 of 2022 (Nitin Kumar Mishra Vs. Varsha Devi @ Varsha Shukla and others).

3. Counsel for the applicant submits that on a complaint lodged by opposite party no. 2, the applicant no. 1 was summoned under section 494 IPC by order dated 01.11.2022, thereafter, the opposite party no. 2 has challenged the aforesaid order by filing criminal revision, which was allowed vide order dated 02.03.2022 by setting aside the order dated 01.11.2022 and the matter is remitted back to the learned Magistrate to decide afresh. He further submits that the applicants were not heard before the revisional court and order passed by court concerned is illegal and without application of judicial mind, which is not justifiable in the eye of law, therefore, the impugned order is liable to be set aside.

4. Per contra, learned A.G.A. opposed the submission raised by applicants' counsel and submitted that applicants have not been summoned by learned Magistrate.

5. Considering the argument raised by applicants' counsel, learned AGA and perused the record, it is evident that the applicants have not made accused in the complaint nor applicants have been summoned by the court and hence they have no power to challenge

the complaint, therefore, no interference is warranted, at this stage.

6. The present 482 application is **dismissed** with the aforesaid observation.

Order Date :- 13.12.2023

Arti