

Court No. - 91

Case :- APPLICATION U/S 482 No. - 35323 of 2023

Applicant :- Bal Kishan And 3 Others

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

Counsel for Applicant :- Mukesh Kumar Maurya

Counsel for Opposite Party :- G.A.

Hon'ble Gajendra Kumar,J.

1. Head learned counsel for the applicants and learned AGA for the State.

2. The present application u/s 482 Cr.P.C. has been filed by the applicants with the prayer to quash the summoning order dated 20.05.2022 as well as the entire proceeding of Complaint Case No.5242 of 2018, under Sections 419, 420 IPC, Police Station Kotwali, District Mainpuri, pending in the court Chief Judicial Magistrate, Mainpuri.

3. Learned counsel for the applicant submits that initially opposite party no.2 has filed a complaint case, which was dismissed under Section 203 Cr.P.C. by the court concerned against which, a Criminal Revision No.15 of 2021 was filed and after hearing both the parties, the revisional court vide order dated 12.11.2021, setting aside the impugned order with the direction that the proper inquiry be made under Section 202 Cr.P.C., which has not been carried by the court concerned while passing the impugned order under Section 203 Cr.P.C.. In pursuance of the revisional court direction, order dated 12.11.2021, the C.J.M., Mainpuri passed the order dated 20.05.2022, in which the applicants have been summoned to stand the trial for the offence under Sections 419, 420 IPC. The main submission of learned counsel for the

applicants is that as per the direction given by the revisional court, no proper inquiry was conducted by the C.J.M., Mainpuri and the relevant sale deed were not directed to be produced before the court or summoned from the Office of the Sub Registrar, Mainpuri and in a mechanical way, the order has been passed. Further submission is that the manner in which the criminal proceeding has been carried out is nothing but an abuse of process of Court.

4. On the other hand, learned AGA has opposed the prayer but could not dispute the aforesaid facts.

5. Keeping in view the contention and submission made by the counsel for the parties, it is apparent that the order dated 20.05.2022 passed by the C.J.M., Mainpuri is not in compliance with the direction issued by the revisional court vide order dated 20.11.2021 rather it has been passed in a mechanical way without application of mind, which is not sustainable in the eye of law and the impugned order is set aside with the direction to pass proper order after conducting the proper inquiry under Section 202 Cr.P.C. as directed by the revisional court.

6. In view of the such facts, the impugned order dated 20.05.2022 is here by set aside.

7. Accordingly, the instant application stands **disposed off**.

Order Date :- 31.10.2023

Sanjeet