

Court No. - 89

Case :- APPLICATION U/S 482 No. - 36670 of 2023

Applicant :- Sohan Lal

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

Counsel for Applicant :- Sheetala Prasad Pandey

Counsel for Opposite Party :- G.A.

Hon'ble Deepak Verma,J.

1. Heard learned counsel for the applicant, learned AGA 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 impugned charge-sheet dated 01.04.2023, cognizance/summoning order dated 04.07.2023 as well as entire proceeding in Criminal Case no.524 of 2023 (State vs. Sohan Lal) arising out of Case Crime No.80 of 2023, under Sections 354B, 506 I.P.C. & 5/6 POCSO Act, Police Station Kalwari, District Basti, pending in the court of Additional Session Judge/Special Judge, POCSO Act, Basti.
3. Learned counsel for the applicant submits that summoning of the applicant under section 5/6 POCSO Act is without application of judicial mind as from perusal of the contents of the FIR as well as statement of the witness recorded during investigation does not disclose offence under section 5/6 POCSO Act. Cognizance taken by learned magistrate as well as summoning by him is without application of judicial mind. Learned Judicial Magistrate has not extended any finding.
4. Per contra, learned A.G.A. has opposed the submission of learned counsel for the applicant.
5. I have carefully examined the submissions advanced by the learned counsel for the parties and perused the impugned order as well as the other materials brought on record.
6. Thus, in view of the above and the fact that the impugned summoning order by which cognizance has been taken does not reflect any application of mind the same cannot be sustained. This application is allowed. The summoning order dated 04.07.2023 in Criminal Case no.524 of 2023 (State vs. Sohan Lal) arising out of Case Crime No.80 of 2023, under Sections 354-B, 506 I.P.C. & 5/6 POCSO Act, is set aside with the direction that the Magistrate shall pass a fresh order in the matter in accordance with law within a period of one month from the date of production of a certified copy of this order.

7. Learned counsel for the applicants undertakes to file a certified copy of this order before the Magistrate concerned within a month from today. In case he fails to do so, this application shall stand dismissed automatically.

Order Date :- 24.11.2023

SKD