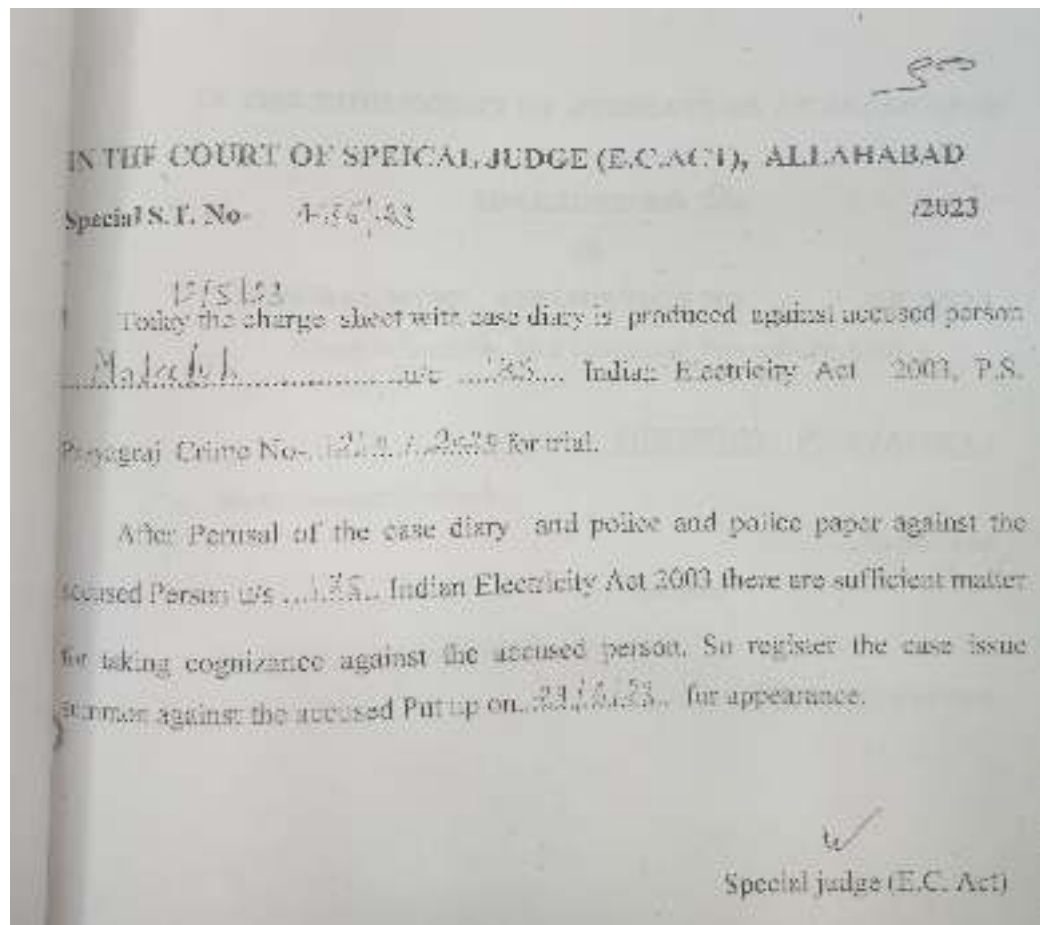


Court No. - 88**Case :-** APPLICATION U/S 482 No. - 36402 of 2023**Applicant :-** Mohammad Matloob**Opposite Party :-** State Of U.P. And 2 Others**Counsel for Applicant :-** Irfan Alim Siddiqui**Counsel for Opposite Party :-** G.A.,Narendra Kumar
Tiwari,Pankaj Srivastava**Hon'ble Sanjay Kumar Singh,J.**

1. Heard learned counsel for the applicant, learned A.G.A. for the State of U.P./opposite party no. 1, Mr. Pankaj Srivastava, learned counsel appearing on behalf of opposite party no. 3/Electricity Department and perused the record.

2. The instant application under Section 482 Cr.P.C. has been preferred by the applicant-Mohammad Matloob with a prayer to quash the charge sheet no. 1 dated 23.12.2022, cognizance/summoning order dated 12.05.2023 and proceedings of Criminal Case No. 436 of 2023 (*State vs. Matloob*) arising out of case crime no. 1210 of 2020, under Section 135 of The Electricity Act, 2003, Police Station Anti Power Theft Thana, Prayagraj, District Anti Power Theft pending in the court of Special Judge (E.C.Act), Allahabad.

3. As per prosecution case in brief, opposite party no. 2- Shailendra Kumar Singh, Sub-Divisional Officer, Khusrubagh lodged a first information report on 17.04.2020 against the applicant for the offence under Section 135 of The Electricity Act, in which after culmination of investigation, charge-sheet dated 23.12.2022 has been submitted against the applicant, on which the Magistrate concerned took cognizance and summoned the applicant to face trial. The said cognizance/summoning order which is under challenge, is extracted hereinbelow:-



4. The main substratum of argument of learned counsel for the applicant is that the learned Special Judge, without applying his judicial mind, took cognizance and summoned the applicant on a printed proforma, which is not sustainable in the eye of law.

5. Learned A.G.A. as well as learned counsel appearing on behalf of electricity department has also conceded that the impugned cognizance/summoning order has been passed on a printed proforma by filling up the blanks, which has been prepared for summoning the accused after filing the F.I.R., hence, the matter may be remanded to the concerned court below with the direction to pass a fresh order.

6. Having heard the arguments of learned counsel for the parties, it is relevant to mention that it is well settled that before a Magistrate who can said to have taken cognizance of an offence, it is imperative that he must have taken notice of the accusations and applied his mind to the allegations made

in the complaint or in the police report or the information received from a source other than a police report, as the case may be, and the material filed therewith. It needs little emphasis that it is only when the Magistrate applies his mind and is satisfied that the allegations, if proved, would constitute an offence and decides to initiate proceedings against the alleged offender, then it can be positively stated that he has taken cognizance of the offence.

7. It is very strange that despite there being a series of decisions of the Apex Court and this Court disapproving such practice of passing orders on printed proforma by the judicial officers, it is very painful and unfortunate to see that applicant in the present case has been summoned by the Magistrate by an order in which blanks have been filled in on a printed proforma without applying judicial mind. This type of order has already been held unsustainable by this Court in the case of **Ankit Vs. State of U.P. and another**, JIC 2010 (1) 432 relying on in a number of decisions of the Apex Court. The relevant portion of the said decision, is extracted below:

"Although as held by this Court in the case of Megh Nath Guptas & Anr V State of U.P. And Anr, 2008 (62) ACC 826, in which reference has been made to the cases of Deputy Chief Controller Import and Export Vs Roshan Lal Agarwal, 2003 (4) ACC 686 (SC), UP Pollution Control Board Vs Mohan Meakins, 2000 (2) JIC 159 (SC): AIR 2000 SC 1456 and Kanti Bhadra Vs State of West Bengal, 2000 (1) JIC 751 (SC): 2000 (40) ACC 441 (SC), the Magistrate is not required to pass detailed reasoned order at the time of taking cognizance on the charge sheet, but it does not mean that order of taking cognizance can be passed by filling up the blanks on printed proforma. At the time of passing any judicial order including the order taking cognizance on the charge sheet, the Court is required to apply judicial mind and even the order of taking cognizance cannot be passed in mechanical manner. Therefore, the impugned order is liable to be quashed and the matter has to be sent back to the Court below for passing fresh order on the charge sheet after applying judicial mind."

8. In view of the above, the conduct of the judicial officer concerned in passing orders on printed proforma by filling up the blanks without application of judicial mind is objectionable

and deserves to be deprecated. The summoning of an accused in a criminal case is a serious matter and the order must reflect that Magistrate had applied his mind to the facts as well as law governing the issue.

9. In view of what has been stated above, the impugned cognizance/summoning order dated 12.05.2023 is hereby quashed.

10. Accordingly, the present application is ***allowed*** with a direction to the concerned Presiding Officer to pass fresh order after applying his judicial mind within four weeks' from the date a certified copy of this order is produced before it.

11. Office is directed to place a copy of this order before the Registrar General of this Court, who shall place the same before Hon'ble Administrative Judge concerned where the officer is presently posted.

12. Copy of this order be also sent to the District Judge, Prayagraj for necessary information.

Order Date :- 7.12.2023

Saurabh