

**Court No. - 4**

**Case :-** APPLICATION U/S 482 No. - 38027 of 2023

**Applicant :-** Manoj Kumar

**Opposite Party :-** State Of U.P. And 2 Others

**Counsel for Applicant :-** Jata Shankar Pandey

**Counsel for Opposite Party :-** G.A.,Baleshwar Chaturvedi

**Hon'ble Prakash Padia,J.**

1. Heard learned counsel for the applicants, learned A.G.A. for the State and Sri Baleshwar Chaturvedi, learned counsel for the opposite party Nos.2 & 3.

2. This application u/s 482 Cr.P.C. has been filed with prayer to quash the impugned charge sheet dated 19.10.2015 as well as cognizance/summoning order dated 22.10.2016 and non-bailable warrant dated 01.05.2019 passed by Special Judge Electricity Act,/Additional Sessions Judge, Court No.4 Firozabad in S.S.T. No.5116 of 2016 (State Vs. Manoj Kumar) arising out of Case Crime No.641 of 2015 under Section 135 of U.P. Electricity Act Police Station Sirsaganj District-Firozabad with an alternative prayer to stay the aforesaid case.

2. It is argued by learned counsel for the applicant that the charge-sheet has been submitted in the matter on 19.10.2015 and cognizance has already been taken by the Special Judge Electricity Act/Addition Sessions Judge, Court No.4 Firozabad on 22.10.2016. It is argued that thereafter various dates were fixed but the same has not been served thereafter non-bailable warrant was issued against the applicant thereafter he knew regarding the aforesaid case. It is argued that from perusal of the entire charge-sheet, no offence is made out against them. It is also submitted that cognizance of the offence has been taken on printed proforma without applying judicial mind. It has also been submitted that cognizance of the offence has been taken on printed proforma without applying judicial mind. Relying upon the decision of this Court in **Ankit Vs. State of U.P. and another J.I.C. 2010 (1) 432**, submission of learned counsel for the applicant is that the order of cognizance being on a printed proforma is clearly without application of judicial mind and

hence is liable to be quashed on this ground alone.

4. Learned A.G.A. as well as Sri Baleshwar Chaturvedi, learned counsel for the opposite party Nos.2 & 3 has opposed the prayer and submitted that at this stage it cannot be said that no offence is made out against the applicant and charge sheet has been submitted on the basis of credible evidence. He further submitted that the cognizance order has been based on printed proforma and, therefore, keeping in view the decision in the case of Ankit (supra) the Magistrate concerned may be directed to pass a fresh order.

5. All the submission relates to the disputed question of fact, which cannot be adjudicated upon by this Court under Section 482 Cr.P.C. At this stage only prima facie case is to be seen in the light of the law laid down by Supreme Court in cases of ***R.P. Kapur Vs. State of Punjab, A.I.R. 1960 S.C. 866, State of Haryana Vs. Bhajan Lal, 1992 SCC (Cr.) 426***. The disputed defence of the accused cannot be considered at this stage.

6. As regards the order of cognizance dated 22.10.2016 a certified copy of that order is annexed as Annexure No.5 to the affidavit. From perusal of the above order, it is evident that it is in a typed proforma where "crime number, section of the offence, name of the accused and next date fixed" are filled in printed proforma which leads to the conclusion that the Magistrate had passed the order in mechanical manner without application of judicial mind. In series of decision of the Apex Court, and of this Court it has been disapproved to pass the cognizance order in printed proforma.

7. This type of order has already been held unsustainable by this Court in the case of Ankit (supra) relying on in a number of decisions of the Apex Court. The relevant portion of the said judgement, 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 order of cognizance i.e. summoning order dated 22.10.2016 passed by the Special Judge Electricity Act,/Additional Sessions Judge, Court No.4 Firozabad is hereby quashed and application u/s 482 Cr.P.C. is accordingly partly allowed.

9. The Special Judge Electricity Act,/Additional Sessions Judge, Court No.4 Firozabad is directed to pass fresh cognizance order after applying the judicial mind.

10. With the above observations, the application u/s 482 Cr.P.C. is finally disposed of.

**Order Date :-** 31.10.2023  
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