

Court No. - 87

Case :- APPLICATION U/S 482 No. - 39643 of 2023

Applicant :- Vipul Jain And Another

Opposite Party :- State Of U.P. And Another

Counsel for Applicant :- Ranjeet Kumar Mishra

Counsel for Opposite Party :- G.A.

Hon'ble Neeraj Tiwari,J.

1. Heard 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 applicant with the prayer to quash the cognizance order dated 25.02.2022 as well as the entire proceeding of Case No.8872 of 2022, under Sections 92 of Factories Act, P.S. Bithore, District Kanpur Nagar.

3. Counsel for the applicant confines his arguments to the first part of the submission that the summoning order is bereft of application of mind and has been passed on the cyclostyled copy. He thus argues that the summoning order suffers from the vice of non-application of mind and therefore is liable to be set aside on that ground alone. In support of his submission, he placed reliance on the judgment of the Supreme Court in the case of **Megh Nath Gupta & another Vs. State of U.P. and another, 2008 (62) ACC 826** as well as Single Judge judgment and order passed by this Court in the case of **Ankit Vs. State of U.P. and another [(2009) (9) ADJ 778]** on an **Application No. 19647 of 2009** filed under Section 482 CrPC on 15.10.2009. He, thus, argues that the summoning order is liable to be set aside in view of the well settled law of this Court. He also placed before me several orders passed by this Court whereby similar orders have been set aside by this Court and the matters have been remanded before the Trial Court for fresh orders in accordance with law.

4. A perusal of the summoning order impugned in the present proceedings clearly demonstrates that there was no application of mind whatsoever prior to the passing of the summoning order, which has been repelled by this Court in various judgments.

5. In view of the categorical pronouncements of this Court, the

impugned cognizance order dated 25.02.2022 is set aside and the matter is remanded before the concerned Court below for passing fresh orders of summoning and cognizance if it deems fit within a period of four weeks from the date of production of certified copy of this order.

6. Consequently, the application is **allowed** in part and the order dated impugned cognizance order dated 25.02.2022 is set aside in terms of the order passed above.

7. Let a copy of this order be sent to the concerned Court below for its compliance as stated above.

Order Date :- 23.11.2023

Junaid