

Court No. - 89

Case :- APPLICATION U/S 482 No. - 39054 of 2023

Applicant :- Shan Mohammad and 2 Others

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

Counsel for Applicant :- Raghvendra Kumar Mishra

Counsel for Opposite Party :- G.A.

Hon'ble Deepak Verma, J.

1. Heard learned counsel for the applicants, 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 cognizance order dated 19.01.2023, summoning order dated 23.02.2023, charge sheet dated 18.09.2022 in Case No.Nil of 2022 arising out of Case Crime No.26 of 2022, under Section 498A, 323, 504, 506 I.P.C. and Section 3/4 of DP Act, P.S. Mahila Thana, District Etah, pending in the Court of JM/Civil Judge (JD)/FTC, Crime against Women, Etah.
3. Learned counsel for the applicants submitted that applicants have been falsely been implicated in the present case. The summoning and cognizance order is not speaking order and learned Magistrate without applying his judicial mind, summoned the accused person.
4. Learned AGA vehemently opposed the submission raised by applicant's counsel.
5. Considering the argument raised by counsel for the applicants and perused the record, it is evident from the record that the summoning and cognizance order does not contain any substance which demonstrate that learned Magistrate applied his judicial mind to the facts of the case. *Prima facie*, the order is not a speaking order, cognizance order dated 19.01.2023, summoning order dated 23.02.2023, charge sheet dated 18.09.2022 in Case No.Nil of 2022 arising out of Case Crime No.26 of 2022, under Section 498A, 323, 504, 506 I.P.C. and Section 3/4 of DP Act, P.S. Mahila Thana, District Etah, pending in the Court of JM/Civil Judge (JD)/FTC, Crime against Women, Etah, is hereby quashed.
6. It is hereby directed that learned JM/Civil Judge (JD)/FTC, Etah shall pass a fresh order considering material evidence and apply his judicial mind before summoning the applicant, within a period of one month.
7. With the aforesaid direction, this application under Section 482 Cr.P.C. stands **allowed**.

Order Date :- 26.10.2023

Nitin Verma