

Court No. - 53

Case :- CRIMINAL REVISION No. - 5675 of 2023

Revisionist :- Mohd. Azhar And 2 Others

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

Counsel for Revisionist :- Durgesh Kumar Singh, Anil Kumar Rai, Rishabh Narain Singh

Counsel for Opposite Party :- G.A.

Hon'ble Prashant Kumar, J.

1. Heard Sri Durgesh Kumar Singh, learned counsel for the revisionists and Sri Sanjay Kumar Singh, learned Additional Government Advocate appearing on behalf of the State and perused the record.

2. The instant criminal revision has been filed against order dated 31.7.2023 passed by Additional District and Sessions Judge, Court No.6, Azamgarh in Criminal Revision No.1000281/2022 whereby the Court below while allowing the revision has remanded the matter back to the Sub Divisional Magistrate, Azamgarh.

3. Order passed by the Magistrate on 29.9.2022 shows that opposite party has filed reply and produced the evidence in the Court. The matter was placed on 30.9.2022 and when the case was called out, the opposite party had appeared and the applicant was not present and the matter proceeded ex parte. The matter was put up for orders on 17.10.2022. In the order dated 17.10.2022 in para 3 it is mentioned that the arguments were heard on 29.9.2022, however on that date the matter was adjourned and fixed for 30.9.2022. Clearly neither proper opportunity was given nor opposite party was heard before the order was passed by the Magistrate. Aggrieved thereagainst, respondent herein had filed criminal revision before Additional Sessions Judge, Azamgarh and the same has been allowed by the impugned order and matter has been remanded back. Aggrieved by this order, the revisionist herein filed the instant revision.

4. Sri Singh, learned counsel for the revisionist submits that no prejudice will be caused if the impugned order is set aside. He further vehemently argued that sufficient opportunity was given in the summary proceedings.

5. Per contra, learned Additional Government Advocate

appearing on behalf of State objects the same and states that it is a simple case of remand and if the revisionist has any objection, he may raise the same before the concerned Court below.

6. Since the impugned order is only an order for remanding the matter back and reason for remand was that no opportunity of hearing was given to the respondents herein, I find no illegality in the impugned order and, accordingly, this criminal revision is **dismissed**.

7. Sri Singh, learned counsel for the revisionist submitted that in case his matter is being remanded back to the Magistrate, the concerned Magistrate may be directed to decide the matter expeditiously.

8. The aforesaid request is accepted. The concerned Magistrate is directed to decide the matter expeditiously, without granting unnecessary adjournments to the parties.

Order Date :- 3.11.2023

Manish Himwan