

Court No. - 91

Case :- APPLICATION U/S 482 No. - 39558 of 2023

Applicant :- Rajveer And 3 Others

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

Counsel for Applicant :- Sudhakar Shukla

Counsel for Opposite Party :- G.A.

Hon'ble Gajendra Kumar,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 applicants with the prayer to quash the summoning order dated 23.02.2023 as well as the entire proceeding of Complaint Case No.1811 of 2017, under Sections 323, 504, 506 IPC, P.S. Etmadpur, District Agra.
3. Learned counsel for the applicants submits that the complaint case was filed against the applicants for the offence under Sections 147, 148, 149, 323, 504, 452, 307, 354-A, 354-B, 342, 509, 379, 380 IPC. Further submission is that after recording the statement under Sections 200 & 202 Cr.P.C. of the complainant as well as the witnesses, the learned Magistrate has mechanically summoned the accused persons for the offence under Sections 323, 504, 506 IPC without application of mind as to why the accused are not being summoned for the other offences. Further submission is that the manner in which the proceeding is carried out nothing but an abuse of process of Court.
4. On the other hand, learned AGA has opposed the prayer but could not dispute the aforesaid fact.

5. Keeping in view the submission and contention made by learned counsel for the parties and from the perusal of the impugned order and material on record, it is apparent that the complaint was filed by the complainant against the accused person for the offence under Sections 147, 148, 149, 323, 504, 452, 307, 354-A, 354-B, 342, 509, 379, 380 IPC and the statement made under Sections 200 & 202 Cr.P.C. were recorded. The Magistrate concerned without advertting to the fact that on what material thus collected during the inquiry, the offence only under Sections 323, 504, 506 IPC are made out not in other left over sections, which reflects that the application was passed without application of mind, which is not sustainable in the eye of law and the impugned order is set aside with the direction to the court concerned to decide the matter afresh.

6. In view of the such facts, the impugned order dated 23.02.2023 is here by set aside.

7. Accordingly, the instant application stands **disposed off**.

Order Date :- 23.11.2023
Sanjeet