

Court No. - 89

Case :- APPLICATION U/S 482 No. - 40177 of 2023

Applicant :- Kamranul Haq And 15 Others

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

Counsel for Applicant :- Javed Khan

Counsel for Opposite Party :- G.A.

Hon'ble Deepak Verma,J.

1. Heard learned counsel for the applicant and learned A.G.A. for the State.
2. The present application under Section 482 Cr.P.C., has been filed for quashing of the charge-sheet dated 24.02.2022; cognizance order dated 18.04.2022 as well as entire proceedings of Criminal Case No.833 of 2022 (State Vs. Kamranul Haq and Others) arising out of Case Crime No.30 of 2022, under Sections 188, 269, 270 I.P.C. and Section 51 (b) Disaster Management Act, 2005 and Section 3 of the Epidemic Diseases Act, 1897, P.S.Bhojpur, District Moradabad, pending in the court of Judicial Magistrate, Thakurdwara, Moradabad.
3. It has been argued by learned counsel for the applicant that the first information report of this case has been lodged making false and baseless allegations and the charge-sheet has been submitted in a routine manner without proper investigation. Learned counsel further submitted that impugned summoning order dated 18.04.2022 has been passed on a printed proforma by merely filling the name of the applicant, other details of case like case number, crime number and police station etc. in the proforma, which clearly shows that this order has been passed in a mechanical manner without application of judicial mind and thus, the impugned cognizance order is not sustainable.
4. Learned A.G.A. has opposed the application and argued that looking into the facts of the case, at this stage, it cannot be said that no offence is made out against the applicant.
5. Perusal of record shows that the impugned cognizance order dated 18.04.2022 has been passed on photocopy of a printed proforma and merely details of case like Name of Accused, Sections, Police Station, Crime Number and Next Date of Listing

were filled in the said proforma. It is well settled that summoning order has to be passed after considering relevant material and applying mind. In the instant case, it is apparent that the impugned order has been passed in a mechanical way without applying judicial mind.

6. In view of the aforesaid facts and circumstances of the case and the law laid down in the case of **Ankit Vs. State of U.P.** J.I.C. 2010 (1) 432, **Basasudin and others Vs. State of U.P.** 2011 (1) JIC, 335 All, **Abdul Rashid and others Vs. State of U.P.** 2010 (3) JIC, 7661 All, the impugned summoning/cognizance order is not sustainable and the same is liable to be set aside.

7. Accordingly, the impugned cognizance order dated 18.04.2022, passed by the Judicial Magistrate, Thakurdwara, Moradabad, is hereby set aside and matter is remitted back to the Court below to pass the order on cognizance and summoning afresh expeditiously in accordance with law.

8. With the aforesaid observations, the instant application u/s 482 Cr.P.C. is finally disposed of.

Order Date :- 1.11.2023

Meenu Singh