

Court No. - 91

Case :- APPLICATION U/S 482 No. - 40684 of 2023

Applicant :- Murari And 2 Others

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

Counsel for Applicant :- Sachin Kanaujiya, Shivam Kanoujiya

Counsel for Opposite Party :- G.A.

Hon'ble Gajendra Kumar, J.

1. Heard learned counsel for the applicants and learned A.G.A. for the State and perused the record.

2. The present application u/s 482 Cr.P.C. has been filed by the applicants with the prayer to quash the entire proceeding of impugned charge sheet dated 17.02.2023 as well as cognizance order dated 14.04.2023 in Case No.622 of 2023, arising out of Case Crime No.319 of 2022, under Sections 323, 336, 506 and 325 I.P.C., Police Station Jewar, District Gautam Budh Nagar.

3. It is submitted by learned counsel for the applicants that FIR was lodged as Case Crime No.319 of 2022, under Sections 323, 336, 506 I.P.C. against the four accused persons including Dinesh. Investigating Officer after completing the investigation submitted charge sheet against all the four accused persons including Dinesh, but the Magistrate concerned vide order dated 14.4.2023 has taken cognizance and summoned only accused Murari, Manoj and Rahul except for Dinesh, no reason has been assigned as to what material was considered that the name of Dinesh has been excluded and order has been passed mechanically and is bereft of reasons liable to be set aside.

4. On the other hand, learned AGA for the State had opposed the

prayer but could not dispute the aforesaid facts.

5. From the perusal of the order as well as record, it is apparent that the order dated 14.04.2023 is cryptic one. No narration of fact has been given in the order nor there is satisfaction recorded by the court concerned as to what is the material warranting the summoning the accused by excluding the accused-Dinesh.

6. Keeping in view the entire facts and circumstances of the case and the manner in which proceeding carried out by the trial court, it is apparent that the order dated 14.4.2023 is cryptic one and is passed without application of mind and is against the principles of law, which is not sustainable in the eye of law and the order is set aside with the direction to the court concerned to decide the matter afresh.

7. In view of the such facts, the order dated 14.04.2023 is here by set aside.

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

Order Date :- 16.11.2023

A.N. Mishra