

Court No. - 89

Case :- APPLICATION U/S 482 No. - 42261 of 2023

Applicant :- Subhash And 6 Others

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

Counsel for Applicant :- Upendra Upadhyay

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 impugned summoning order dated 06.02.2023 passed in Criminal Case no.592 of 2023 (State vs. Subhash & others), under Sections 4/10, 3/28 & 41/42 of Forest Conservation & Augmentation Act (wrongly mentioned as I.P.C. in the impugned order), District Kasganj.

3. Learned counsel for the applicants submits that cognizance and summoning order dated 06.02.2023 passed by learned magistrate is without application of judicial mind. Learned magistrate has summoned the applicants under sections 4/10, 3/28 & 41/42 of I.P.C. The dispute is in regard to Forest Law but learned magistrate without going into merit of the case and without perusing the record has taken cognizance against the applicants.

4. Per contra, learned A.G.A. has opposed the submission of learned counsel for the applicants.

5. I have carefully examined the submissions advanced by the learned counsel for the parties and perused the impugned order as well as the other materials brought on record.

6. Thus, in view of the above and the fact that the impugned summoning order by which cognizance has been taken does not reflect any application of mind the same cannot be sustained. This application is **allowed**. The summoning order dated 06.02.2023 in Criminal Case no.592 of 2023 (State vs. Subhash & others), under Sections 4/10, 3/28 & 41/42 of Forest Conservation & Augmentation Act (wrongly mentioned as I.P.C. in the impugned order) is set aside with the direction that the Magistrate shall pass a fresh order in the matter in accordance with law within a period of one month from the date of production of a certified copy of this order.

7. Learned counsel for the applicants undertakes to file a certified copy of this order before the Magistrate concerned within a month from today. In case he fails to do so, this application shall stand dismissed automatically.

Order Date :- 20.11.2023/SKD