

Court No. - 87

Case :- APPLICATION U/S 482 No. - 40596 of 2023

Applicant :- Ratan Lal And 2 Others

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

Counsel for Applicant :- Amit Kumar Singh

Counsel for Opposite Party :- G.A.

Hon'ble Neeraj Tiwari,J.

1. Heard learned counsel for the applicant and learned AGA.
2. The present application u/s 482 Cr.P.C. has been filed challenging the charge sheet dated 11.04.2019, summoning/cognizance order dated 10.01.2023 and bailable warrant dated 09.12.2021 passed by learned Additional Chief Metropolitan Magistrate-III, Kanpur Nagar and entire proceedings of Case No.37627 of 2019 (State vs. Ratan Lal and others), arising out of Case Crime No.625 of 2018, under Section 427 I.P.C., Police Station Bidhnu, District Kanpur Nagar.
3. Counsel for the applicant confines his arguments to the first part of the submission that the summoning order is bereft of application of mind and has been passed on the cyclostyled copy. He thus argues that the summoning order suffers from the vice of non-application of mind and therefore is liable to be set aside on that ground alone. In support of his submission, he placed reliance on the judgment of the Supreme Court in the case of **Megh Nath Gupta & another Vs. State of U.P. and another, 2008 (62) ACC 826** as well as Single Judge judgment and order passed by this Court in the case of **Ankit Vs. State of U.P. and another [(2009) (9) ADJ 778]** on an **Application No. 19647 of 2009** filed under Section 482 CrPC on 15.10.2009. He, thus, argues that the summoning order is liable to be set aside in view of the well settled law of this Court. He also placed before me several orders passed by this Court whereby similar orders have been set aside by this Court and the matters have been remanded before the Trial Court for fresh orders in accordance with law.
4. A perusal of the summoning order impugned in the present proceedings clearly demonstrates that there was no application of mind whatsoever prior to the passing of the summoning order, which has been repelled by this Court in various judgments.

5. In view of the categorical pronouncements of this Court, the cognizance order dated 16.10.2019 is set aside and the matter is remanded before the concerned Court below for passing fresh orders of summoning and cognizance if it deems fit within a period of four weeks from the date of production of certified copy of this order.

6. Consequently, the application is **allowed** in part and cognizance order dated 16.10.2019 is set aside in terms of the order passed above.

7. Let a copy of this order be sent to the concerned Court below for its compliance as stated above.

Order Date :- 16.11.2023

Amit/-