

2023:AHC:219575

Court No. - 91

Case :- APPLICATION U/S 482 No. - 40975 of 2023

Applicant :- Santosh @ Santosh Kumar And 2 Others

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

Counsel for Applicant :- Surya Prakash Dubey, Surendra Pratap Singh Yadav

Counsel for Opposite Party :- G.A.

Hon'ble Gajendra Kumar, J.

1. Heard learned counsel for the applicants as well as learned A.G.A. for the State and perused the record.
2. This application under Section 482 Cr.P.C. has been filed by the applicants with the prayer to quash the charge sheet No. Nil dated 22.08.2020 along with summoning order dated 20.03.2021 as well as entire proceeding of Case No. 10942 of 2021 (State vs. Santosh and others), arising out of NCR No. 293 of 2020, under Sections 352, 504, 427 IPC, Police Station Ghanghata, District Sant Kabir Nagar, pending in the court of Civil Judge (Senior Division)/Fast Track Court, Sant Kabir Nagar.
3. Submission of learned counsel for the applicants is that the order dated 20.03.2021, by which cognizance has been taken on the charge sheet submitted by investigating officer after completing investigation, is cryptic one without reason and the Magistrate concerned has not mentioned in the order that for what offence the cognizance is taken by him. The entire proceeding is nothing but abuse the process of the Court. As such, the entire criminal proceeding against the applicant may be quashed.
4. Per contra, learned AGA opposed the prayer of the applicant, but could not dispute the aforesaid facts.
5. From perusal of the impugned order it is apparent that the impugned order is cryptic one, which cannot be sustained in the eye of law.
6. Looking to the facts and circumstances of the case, it appears that the Magistrate concerned has passed the order in mechanical manner and the order does not reflect the offence in which the cognizance has been taken and the applicants have been summoned. Hence, the order dated 20.03.2021 whereby the applicants have been summoned, is hereby set-aside.
7. The present application u/s 482 Cr.P.C. is allowed to this extent.
8. The matter is remanded back to the trial court concerned to pass fresh order in accordance with law within a period of four weeks from the date of production of a certified copy of this order.

Order Date :- 17.11.2023/v.k.updh.