

Court No. - 87

Case :- APPLICATION U/S 482 No. - 43024 of 2023

Applicant :- Jamalurshid

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

Counsel for Applicant :- Chetan Chatterjee

Counsel for Opposite Party :- G.A.

Hon'ble Neeraj Tiwari,J.

1. Heard learned counsel for the applicant and learned A.G.A. for the State.
2. The present 482 Cr.P.C. application has been filed to quash the order dated 11.09.2023 passed by the Additional Civil Judge (Junior Division)/Judicial Magistrate, Court No.15, Prayagraj in Complaint Case No.231 of 2021, under Section 323, 504 and 506 I.P.C.
3. Apart from many other arguments, learned counsel for the applicant submits that in the impugned summoning order finding of the Court is that only offence under Sections 504 and 506 I.P.C. is made out, whereas summoning order has been issued under Sections 323, 504 and 506 I.P.C., which is ex facie bad and liable to be set aside.
4. Learned A.G.A. could not dispute the aforesaid facts.
5. I have considered the rival submissions made by the learned counsel for the parties and perused the record. From perusal of the summoning order, it is apparently clear that the trial Court had observed that offence under Sections 504 and 506 I.P.C. is made out against the applicant, but without any reason summoning order has been issued under Sections 323, 504 and 506 I.P.C. Hence, the present proceedings is bad and liable to the set aside.
6. The order dated 11.09.2023 passed by the Additional Civil Judge (Junior Division)/Judicial Magistrate, Court No.15, Prayagraj in Complaint Case No.231 of 2021, under Section 323, 504 and 506 I.P.C. is hereby quashed. The matter is remanded back to the court concerned to decide afresh within four weeks from the date of production of a certified copy of this order and pass appropriate order, considering the material available on record.
7. With the aforesaid directions, the present application is **allowed**.

Order Date :- 1.12.2023/Amit/-