

Court No. - 28

Case :- APPLICATION U/S 482 No. - 9925 of 2023

Applicant :- Pawan Verma

Opposite Party :- State Of U.P. Thru. Addl. Chief Secy.
(Home) Lko. And Another

Counsel for Applicant :- Abha Srivastava, Manish
Barnwal, Sadhu Sharan Chaubey

Counsel for Opposite Party :- G.A.

Hon'ble Shree Prakash Singh, J.

Heard Sri Sadhu Sharan Chaubey, learned counsel for the applicant, Sri Nirmal Kumar Pandey, learned A.G.A. for the State and perused the record.

Instant application has been filed with a prayer to quash the entire proceeding including charge sheet no. 01/2017 dated 05.09.2017 U/s 323, 504, 506 & added section 325 IPC arising out of case crime no. 473/2017 U/s 323, 504, 506 IPC, P.S-Chinhat, District Lucknow, pending in the court of A.C.J.M. -III, Lucknow, including typed proforma cognizance/ summoning order dated 16.12.2017 passed by learned Addl. Chief Judicial Magistrate-I, (court no 27) Lucknow.

Learned counsel appearing for the applicant submits that an FIR was lodged against the applicant on 13.06.2017 under sections 323, 325, 504 and 506 of IPC and thereafter, the Investigating Officer, without collecting the material evidence has submitted the chargesheet. He next added that the learned trial court ignoring the settled proposition of law has passed the order on 16.12.2017, wherein, fill in the blanks is done. He next added that in fact there is no application of mind by learned trial court so far as the order of cognizance and summoning order are concerned.

In support of his contention, he has placed reliance on the judgment of **Ankit Vs. State of U.P. And another passed in Application U/S 482 No.19647 of 2009 decided on 15.10.2009** and submits that the case of the present applicant is squarely covered with the ratio of the judgment above-said, therefore, submission is that the order dated 16.12.2017 is liable to be set aside.

Learned counsel for the State has opposed the matter on merits, but he has no objection so far as the settled proposition of law is concerned.

Considering the submissions of learned counsel for the applicant and law settled by the coordinate bench of this Court, the order dated 16.12.2017 is hereby set aside.

Matter is remitted back to the trial court concerned to pass a fresh order within a period of thirty days, in accordance with law.

The instant application is hereby **allowed**.

Order Date :- 17.10.2023
Mayank