

Court No. - 12

Case :- APPLICATION U/S 482 No. - 10565 of 2023

Applicant :- Dheerendra Singh And 3 Others

Opposite Party :- State Of U.P. Thru. Prin. Secy. Home Lko.
And Another

Counsel for Applicant :- Anand Dubey

Counsel for Opposite Party :- G.A.

Hon'ble Rajeev Singh,J.

1. Heard learned counsel for the applicants, learned A.G.A. for the State and perused the record.
2. Present application has been moved by the applicants for quashing the summoning order dated 04.08.2023 passed by Judicial Magistrate-II, Court No.19, District- Rae Bareli in Complaint Case No.30058 of 2022.
3. Learned counsel for the applicants submitted that on the basis of incorrect facts, the complaint in question was lodged and no such incident was taken place. He further submitted that whatsapp messages were considered by the trial court without placing any certificate under Section 65B of Indian Evidence Act and it was also obligatory on the part of the trial court to conduct an inquiry before passing of the summoning order. He further relied on the decision of Hon'ble Apex Court in the case of *M/s Pepsi Food Ltd and Anr. Vs. Special Judicial Magistrate and Ors.* reported in *1998 U.P. Criminal Ruling 118* and submitted that the Magistrate is not a silent spectator at the time of recording evidence before passing the summoning order. He further submitted that the enmity has also been admitted by the complainant, therefore, kind indulgence of this Court is necessary.
4. Learned A.G.A. opposed the prayer of applicants and submitted that trial court has rightly appreciated the evidences as well as contents of the complaint before passing the summoning order, as the prayer was made in the complaint for summoning of the applicants under Sections 323, 504, 506, 392, 384, 385 I.P.C. but summoning order has been passed only for the offence under Sections 323 and 504 I.P.C., therefore, there is no illegality in the order passed by the trial court.
5. Considering the submissions of learned counsel for the parties, going through the contents of application, judgment relied on by learned counsel for the applicants, as well as other

relevant documents, as it is evident that the allegations have been made in the statement recorded under Sections 200 and 202 Cr.P.C., thereafter, summoning order was passed, therefore, I am of the view that there is no illegality in the order passed by the trial court and the present application is liable to be dismissed.

6. Accordingly, the present application is hereby **dismissed**.

Order Date :- 30.10.2023

V. Sinha