

Court No. - 12

Case :- APPLICATION U/S 482 No. - 12150 of 2023

Applicant :- Yamuna Prasad Mishra And 3 Others

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

Counsel for Applicant :- Sumit Kumar Srivastava

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 material brought on record.
2. This application has been filed for quashing the charge sheet dated 09.12.2022 as well as summoning order dated 05.12.2022 passed in Case No. 19603 of 2022, (State Vs. Jamuna Prasad & Ors.) arising out of F.I.R. No. 220 of 2022, under Sections 147, 148, 323, 452, 354-Kha I.P.C., P.S. Kotwali City, District Pratapgarh.
3. Learned counsel for the applicants submits that the charge sheet was prepared by the Investigating Officer on 09.12.2022 against the applicants and it was placed before the court concerned, but in the mechanical manner, cognizance was taken by the court below by mentioning the date as 05.12.2022, which clearly reveals non-application of mind. It is, thus, submitted that the cognizance order dated 05.12.2022 is liable to be set aside.
4. Learned A.G.A. opposes the prayer of the applicants and submits that after collecting the evidences, the charge sheet was filed by the Investigating Officer. It is also submitted that the arguments advanced by the learned counsel for the applicants can also be raised before the court below. However, learned A.G.A. does not dispute the fact that the charge sheet was prepared by the Investigating Officer on 09.12.2022, but due to inadvertent mistake, the date of cognizance mentioned on the charge

sheet is 05.12.2022. Learned A.G.A. also has no objection, in case, the order dated 05.12.2022 is quashed and the matter is remanded back for passing fresh orders.

5. Considering the arguments advanced by the learned counsel for the applicants, learned A.G.A and going through the contents of the application as well as other relevant documents, it is evident that the Investigating Officer filed the charge sheet on 09.12.2022, however, in the cognizance order, the date is mentioned as 05.12.2022, which clearly shows non-application of mind.

6. In view of above facts and circumstances, order dated 05.12.2022 is hereby set aside. The application stands allowed.

7. Chief Judicial Magistrate, Pratapgarh is directed to pass fresh orders in accordance with law.

Order Date :- 15.12.2023

VKS