

Neutral Citation No. - 2024:AHC-LKO:41447

Reserved on 21.05.2024

Delivered on 31.05.2024

A.F.R.

Court No. - 27

Case :- APPLICATION U/S 482 No. - 2828 of 2013

Applicant :- Waris Ali

Opposite Party :- The State Of U.P. And Another

Counsel for Applicant :- Neeraj Kumar, Ambrish Singh Yadav, Amit Jaiswal
Ojus Law, Gaurav Saxena, Juhi Saxena, Lalla Chauhan, Rajni Saxena, Rishi
Saxena, Sheena Saxena, Tanveer Ahmad Siddiqui

Counsel for Opposite Party :- Govt. Advocate, Ratnesh Chandra

Hon'ble Shamim Ahmed, J.

1. Heard Sri Sudeep Seth, learned Senior Advocate assisted by Sri Tanveer Ahmad Siddiqui and Sri Amit Jaiswal, learned counsel for the applicant, Sri Ashok Kumar Singh, learned A.G.A.-I for the State Opposite Party No.1 and Sri Ratnesh Chandra, Advocate alongwith Ms. Mansi Singh, learned counsel for the respondent no.2 i.e. Lucknow Development Authority.

2. The instant application under Section 482 Cr.P.C. has been filed with a prayer to quash the Charge Sheet of the Case Crime No.8/2012, under Section 447 I.P.C., Police Station Mahanagar, District Lucknow pending before the learned Additional Chief Judicial Magistrate-IV, Lucknow. Further, in the rejoinder affidavit, summoning order dated 15.05.2012 has also been challenged alongwith the entire proceedings in pursuance thereof.

3. On 04.01.2024, a Co-ordinate Bench of this Court has passed the following order:-

"1. Heard Sri Sudeep Seth, learned Senior Advocate, assisted by Sri Tanveer Ahmad Siddiqui and Sri Amit Jaiswal, learned counsel for petitioner and Sri Aniruddh Kumar Singh, learned AGA-I for the State as well as Sri Ratnesh Chandra, learned counsel for opposite party no.2.

2. Learned counsel for the petitioner has vehemently submitted that the investigation has not been conducted by the police properly inasmuch as the petitioner departed from Lucknow (India) to Jeddah (Saudi Arabia) on 19.04.2012 and returned from there on 16.05.2012 as copy of passport

has been enclosed as Annexure No.9 to the petition, which indicates those facts. However, the statement of the petitioner is said to have been recorded by the police on 22.04.2012 indicating therein that the petitioner appeared before the police agency and recorded his statement at Lucknow. Sri Seth, learned Senior Advocate, has stated that this cannot be possible in any manner that a person concerned is at abroad from 19.04.2012 to 16.05.2012 but has recorded his statement on 22.04.2012. The specific recital to this effect has been given not only in the petition but also in the rejoinder affidavit, which was filed on 30.10.2023 to the counter affidavit of the LDA. In the rejoinder affidavit, typed copy of the case diary has been enclosed, which clearly shows that statement of the petitioner has been recorded at Lucknow on 22.04.2012.

3. On being confronted the learned AGA as to how statement of the petitioner could have been recorded at Lucknow on 22.04.2012 when he was out of India from 19.04.2012 to 16.05.2012, learned AGA prays for and is granted two weeks and no more time to file counter affidavit/ short counter affidavit replying the contents of the petition as well as of the rejoinder affidavit.

4. It is expected that copy of counter affidavit/ short counter affidavit shall be provided to the learned counsel for the petitioner on or before 20.01.2024. Thereafter, a week's time is given to learned counsel for the petitioner to file rejoinder affidavit.

5. List on 31.01.2024 within top ten cases.

6. It is made clear that this case shall not be adjourned on the next date.

7. Interim order, if any, shall continue till the next date of listing. "

4. Despite the aforesaid order, learned A.G.A.-I for the State has not filed counter affidavit till date, as such, this Court has no other option but to proceed further for final argument.

5. Learned Senior Counsel for the applicant submitted that the applicant was one of the Director of the Company e-Construction Solutions Pvt. Limited situated at e-Chamber, near ISRO Space Center, Kursi Road, Lucknow which was duly registered under the Companies Act, 1956. The said company consisted of three Directors including the applicant and the other two directors of the company, namely, Mr Qazi Azmal Husain S/o Qazi Akhtar Husain and Mr Altaf Husain S/o Mr Ashfaq Husain.

6. Learned Senior Counsel further submitted that the said company i.e. e-Construction Solutions Pvt. Ltd. purchased a piece of land measuring about 7074 sq. feet from one Mr. Shyam Kapoor S/o Mr. N.N. Kapoor by paying a consideration of Rs.56,00,000/- (Rs Fifty Six Lakhs only) through Registered Sale Deed executed on 23.09.2005. Thereafter, on 12-03-2010, the said company, under the signature of all three Directors, sold the said piece of Land for Rs 86,98,000/- (Rs Eighty Six Lakhs Ninety Eight Thousand only) to another company i.e. M/s Mega Infra Developers India Pvt. Ltd, which was also duly registered under the Companies Act, 1956 and consisted of only two Directors, namely, Mr. Qazi Ajmal Husain S/o Qazi Akhtar and Mr. Rajendra Kumar Verma S/o Ramuggar Verma. However, there is no relation between the two companies but only the common link i.e. Mr. Qazi Ajmal Husain, who is one of the Director in both the companies.

7. Learned Senior Counsel further submitted that after the said piece of Land was sold to M/s Mega Infra Developers India Pvt. Ltd, the e-Construction Solutions Pvt. Ltd had no concern with the said piece of Land, however, upon the statement dated 15.01.2012 given by Mr. Rakesh Kumar Singh, Assistant Engineer, Zone 11, LDA, who is also impleaded as Opposite Party No. 2, the said case crime was registered with allegations that Qazi Ajmal Hussain, Director e-Constructions, was carrying out construction on C-822 Mahanagar, Lucknow against the approved map, therefore, it was sealed on 30.09.2011 and when it was checked again on 09.01.2012, it was found that the construction continued after breaking the seal.

8. Learned Senior Counsel further submitted that investigation was carried out by the concerned Investigating Officer and after concluding the investigation, he filed the charge sheet on 22.04.2012.

9. Learned Senior Counsel further submitted that to the utter surprise of the applicant, the concerned Investigating Officer in the said charge sheet shown to have recorded the statement of the applicant on 22.04.2012 at Police Station Mahanagar, District Lucknow whereas on the contrary, the applicant was not even in the country when the said statement of the applicant had been shown to have been recorded as the applicant left the country for Jeddah (Saudi Arabia) on 19.04.2012 and came back on 16.05.2012 to India which is evident from the records of the Passport of the applicant, the same is also apparent from copy of applicant's passport with visa stamp, which is annexed as annexure no.9 to the affidavit filed alongwith the application under Section

482 Cr.P.C. Thus, learned Senior Counsel submitted that the applicant has been falsely implicated in the said case crime number and the entire investigation shown to have been done by the concerning Investigating Officer seems to be manufactured and sham and is not tenable in the eyes of law. The statement dated 22.04.2012 is being reproduced hereunder:-

"बयान अभियुक्त वारित अली पुत्र स्व० आकि अली नि० बी-77 निराला नगर थाना हसनगंज लखनऊ ने बदरियाफ्त पूछने पर बताया कि भूखण्ड तंख्या ती-822 ते० जी० महानगर को मैंने व मेरे दो पार्टन काजी अजमत हुसैन व अल्ताफ हुसैन द्वारा ग्रह किया गया है। उक्त भूखण्ड पर हम तीनों लोगों द्वारा फ्लैट का निर्माण किया गया है। हम लोगों द्वारा एल०डी०२० से नक्शा पात कराया गया है। किन्तु थोड़ा बहुत कभी नक्श के विपरीत हो गया है जिसके सम्बन्ध में हम लोगों की बात एल०डी०ए० से तमन पुलिक जमा करने की चल रही है। शीघ्र ही तय पुलिक जमा करा दिया जायेगा। यही मेरा बयान है।"

10. Learned Senior Counsel further submitted that the applicant is an innocent person, who has been falsely implicated in the said case crime number, having no relation with the owner of the said plot i.e. M/s Mega Infra Developers Pvt. Ltd. The company, M/s Mega Infra Developer Pvt. Ltd has neither been implicated as accused nor included in the charge sheet.

11. Learned Senior Counsel further submitted that the Hon'ble High Court appreciated the aforesaid fact and granted absolute stay on the proceeding of the said case crime number vide its order dated 14.06.2013, which is being reproduced hereunder:-

"Sri Nadeem Murtaza accepts notice on behalf of respondent no.2 who prays for and is granted six weeks time to file counter-affidavit."

List thereafter.

Meanwhile, further proceedings of Case No. 792 of 2012, pending in the court of Additional Chief Judicial Magistrate-IV, Lucknow, shall remain stayed. "

12. Learned Senior Counsel further submitted that Investigating Officer had also recorded statement under Section 161 Cr.P.C. of Mr. V.C. Zaria, who is another engineer, Zone 11, LDA which is corroborating the above mentioned statement of Mr. Rakesh Kumar Singh. As per statement of Mr. Rakesh Kumar Singh, following brief facts arises:-

i) He found that Qazi Ajmal Husain S/o Qazi Akhtar Husain, Director M/s e-Constructions Solution Pvt. Ltd., situated at e-chambers near ISRO Space Center, Kursi Road, Lucknow was illegally constructing building on plot of land no. C-822, Sector -C, Mahanagar, Lucknow measuring about 7074 sq. feet against the approved plan of L.D.A.

ii) Thus, the Police stopped the construction work, which was being illegally done according to prosecution by Qazi Ajmal Husain and on 30.9.2011 sealed the same.

iii) According to prosecution, Qazi Ajmal Husain was again found on 09.01.2012, resuming the construction work against the law by breaking the seal and defying the orders.

iv) Thus, statement was recorded U/s- 161 Cr.P.C. by the Investigating Officer of Police Station Mahanagar, District Lucknow on account of complaint of the Informant, Mr. Rakesh Singh against Qazi Ajmal Husain at Mahanagar Police Station, District- Lucknow.

13. Learned Senior Counsel further submitted that accused Qazi Ajmal Husain S/o Qazi Akhtar Husain, Director M/s e-Constructions Solution Pvt. Ltd. appeared before the Police Station Mahanagar, District Lucknow and Investigating officer has recorded his statement under Section 161 Cr.P.C. As per his statement, following facts arises:-

i) He alongwith his two other partners of the M/s e-Constructions Solution Pvt. Ltd i.e. (1) Waris Ali S/o Late Ashiq Ali and (2) Altaf Husain S/o Mr. Ashfaq Husain bought the plot of land no. C-822, Sector -C, Mahanagar, Lucknow measuring about 7074 sq. feet jointly.

ii) All the three directors of the company jointly decided to construct flats on the plot of land and thus they submitted an application to L.D.A. for the approval of the plan and map of the construction.

iii) Some construction was slightly in contravention to the approved plan and thus they were trying to resolve the matter by bringing the matter in front of L.D.A and submission of the compounding fees.

iv) The accused assured of submitting the compounding fees as soon as possible.

14. Learned Senior Counsel further submitted that according to the Investigating Officer (R. R. Kushwaha), Mr. Waris Ali S/o Late Ashiq Ali (applicant) R/o B-77, Nirala Nagar, District-Lucknow, Uttar Pradesh during investigation on 22.04.2012 stated :-

i) He along with his two other Partners of the M/s e-Constructions Solution Pvt. Ltd i.e. (1) Waris Ali S/o Late Ashiq Ali and (2) Altaf Husain S/o Mr. Ashfaq Husain bought the plot of land no. C-822, Sector-C, Mahanagar, Lucknow measuring about 7074 sq. feet jointly.

ii) All the three directors of the company jointly decided to construct flats on the plot of land and thus they submitted an application to L.D.A. for the approval of the plan and map of the construction.

iii) Some construction was slightly in contravention to the approved plan and thus they were trying to resolve the matter by bringing the matter in front of L.D.A and submission of the compounding fees.

iv) Negotiation to reduce the compounding fees was going on, and after deciding the exact amount, the fee will be submitted to L.D.A.

15. Thus, learned Senior Counsel submitted that the above noted facts clearly depicts that the applicant is not the owner of the plot of land no. C-822, Sector -C, Mahanagar, Lucknow measuring about 7074 sq. feet and also is not a party to any plan of construction of flat on the above mentioned plot of land with Qazi Ajmal Husain, as such, the facts and statements recorded by the Investigating Officer of Mahanagar Police Station District -Lucknow are false on the pretext of the absence of the applicant i.e. Waris Ali S/o Late Ashiq Ali.

16. Learned Senior Counsel further submitted that it is pertinent to mention here that the prime accused Qazi Ajmal Husain concealed the facts of selling the above plot of land on 12.03.2010 to M/s Mega Infra Developers India pvt. Ltd. through its director Rajendra Kumar Verma and falsely implicated the applicant as the owner of the land by way of the earlier sale deed dated 23.09.2005.

17. Learned Senior Counsel further submitted that in the case of **Sundar Babu versus State of Tamil Nadu; Criminal Appeal No. 773 of 2003**, Hon'ble the Supreme Court laid down the conditions/circumstances for quashing of F.I.R. relying on the case of **State of Haryana Vs. Bhajan Lal 1992 SCC(Cr.) 426**. The grounds were as follow:-

a) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.

b) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Sec.156(1) of the Code except under an order of a Magistrate within the purview of Sec. 155(2) of the Code.

c) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.

d) Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Sec. 155 (2) of the Code.

e) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

f) Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or

where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.

g) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge."

18. Learned Senior Counsel further submitted that this is a fit case for quashing the charge sheet because due to legal defect, in filing of charge sheet against applicant, same is not maintainable and is liable to be quashed in exercise of inherent powers of this Court under Section 482 Cr.P.C. to check and prevent abuse of process of the Court alongwith entire proceedings of the case.

19. On the other hand, learned A.G.A.-I for the State Opposite Party No.1 as well as learned counsel for the opposite party no.2 have vehemently opposed the submissions advanced by learned counsel for the applicant and have submitted that the applicant has nowhere pointed out any abuse of process of Court by virtue of which he could knock the door of this Hon'ble Court. A clear case of violation of Section 447 I.P.C. is made out against the applicant for which the trial is to be conducted before the learned trial court and the applicant would be having all the opportunities to contest the case before it. The applicant was raising unauthorized construction due to which the property in question was sealed in the year 2011 and the applicant after breaking the seal in an illegal and unauthorized manner, started the construction, therefore, the F.I.R. under appropriate Section was lodged against him. Thus, a criminal case is made out against the applicant for violation of Section 447 I.P.C., hence, the charge sheet has rightly been filed against him. The applicant is trying to raise factual dispute in the present case and, as such, the present application under Section 482 Cr.P.C. is liable to be dismissed.

20. After considering the entire facts and circumstances of the case as well as after considering the arguments as advanced by learned counsel for the parties, this Court finds it appropriate to discuss some judgments which have been pronounced by Hon'ble the Supreme Court of India.

21. Hon'ble the Supreme Court of India in the case of **Lalankumar Singh and Others vs. State of Maharashtra** reported in **2022 SCC Online SC**

1383 has specifically held in paragraph No.38 that the order of issuance of process is not an empty formality. The Magistrate is required to apply his mind as to whether sufficient ground for proceeding exists in the case or not. Paragraph No.38 of **Lalankumar Singh and Others (supra)** is being quoted hereunder:-

"38. The order of issuance of process is not an empty formality. The Magistrate is required to apply his mind as to whether sufficient ground for proceeding exists in the case or not. The formation of such an opinion is required to be stated in the order itself. The order is liable to be set aside if no reasons are given therein while coming to the conclusion that there is a prima facie case against the accused. No doubt, that the order need not contain detailed reasons. A reference in this respect could be made to the judgment of this Court in the case of Sunil Bharti Mittal v. Central Bureau of Investigation, which reads thus:

"51. On the other hand, Section 204 of the Code deals with the issue of process, if in the opinion of the Magistrate taking cognizance of an offence, there is sufficient ground for proceeding. This section relates to commencement of a criminal proceeding. If the Magistrate taking cognizance of a case (it may be the Magistrate receiving the complaint or to whom it has been transferred under Section 192), upon a consideration of the materials before him (i.e. the complaint, examination of the complainant and his witnesses, if present, or report of inquiry, if any), thinks that there is a prima facie case for proceeding in respect of an offence, he shall issue process against the accused.

52. A wide discretion has been given as to grant or refusal of process and it must be judicially exercised. A person ought not to be dragged into court merely because a complaint has been filed. If a prima facie case has been made out, the Magistrate ought to issue process and it cannot be refused merely because he thinks that it is unlikely to result in a conviction.

53. However, the words "sufficient ground for proceeding" appearing in Section 204 are of immense importance. It is these words which amply suggest that an opinion is to be formed only after due application of mind that there is sufficient basis for proceeding against the said accused and formation of such an opinion is to be stated in the order itself. The order is liable to be set aside if no reason is given therein while

coming to the conclusion that there is prima facie case against the accused, though the order need not contain detailed reasons. A fortiori, the order would be bad in law if the reason given turns out to be ex facie incorrect."

22. Further, Hon'ble the Supreme Court of India has also provided guidelines in case of State of **Haryana Vs. Bhajan Lal** reported in **1992 Supp (1) SCC 335** for the exercise of power under Section 482 Cr.P.C. which is extraordinary power and used separately in specific conditions, which have already been discussed above in the contention of learned counsel for the applicant.

23. Further, Hon'ble the Supreme Court of India has also laid down the guidelines where the criminal proceedings could be interfered and quashed in exercise of its power by the High Court in the following cases:- (i) **R.P. Kapoor Vs. State of Punjab**, AIR 1960 S.C. 866, (ii) **State of Bihar Vs. P.P. Sharma**, 1992 SCC (Cri.)192, (iii) **Zandu Pharmaceutical Works Ltd. Vs. Mohd. Saraful Haq and another**, (Para-10) 2005 SCC (Cri.) 283 and (iv) **Neeharika Infrastructure Pvt. Ltd. Vs. State of Maharashtra**, AIR 2021 SC 1918.

24. In **S.W. Palankattkar & others Vs. State of Bihar**, 2002 (44) ACC 168, it has been held by the Hon'ble Apex Court that quashing of the criminal proceedings is an exception than a rule. The inherent powers of the High Court itself envisages three circumstances under which the inherent jurisdiction may be exercised:-(i) to give effect an order under the Code, (ii) to prevent abuse of the process of the court ; (iii) to otherwise secure the ends of justice. The power of High Court is very wide but should be exercised very cautiously to do real and substantial justice for which the court alone exists.

25. In **M/s Pepsi Food Ltd. and another Vs. Special Judicial Magistrate and others**: 1998 (5) SCC 749, Hon'ble Apex Court has observed:

"Summoning of an accused in a criminal case, is a serious matter. Criminal law can not be set into motion as a matter of course. It is not that the complainant has to bring only two witnesses to support his allegations in the complaint to have the criminal law set into motion. The order of the Magistrate summoning the accused must

reflect that he has applied his mind to the facts of the case and the law applicable thereto. He has to examine the nature of allegations made in the complaint and the evidence both oral and documentary in support thereof and would that be sufficient for the complainant to succeed in bringing charge home to the accused. It is not that the Magistrate is a silent spectator at the time of recording of preliminary evidence before summoning the accused. Magistrate had to carefully scrutinize the evidence brought on record and may even himself put questions to the complainant and his witnesses to elicit answers to find out the truthfulness of the allegations or otherwise and then examine if any offence is prima facie committed by all or any of the accused."

26. Further, Section 441 I.P.C. provides for a civil trespass getting converted into criminal trespass on the service of the notice on the trespasser to vacate the property. There is no evidence to show that the notice issued under Section 441 I.P.C. by the complainant had been served on the accused. unless the notice had been served, the civil trespass could not get converted into a criminal trespass. The accused could not be convicted under Section 447 I.P.C.

27. In the above facts and circumstances, the applicant cannot be termed as trespasser nor he can be tried under the provision of Section 447 I.P.C., because no offence under that section is made out against the applicant. Since notice under amended Section 441 I.P.C. is mandatory requirement but the same has not been completed, because no notice under Section 441 I.P.C. is ever sent to applicant. Due to non compliance of this mandatory provision, offence of "*criminal trespass*" which has been defined in Section 441 I.P.C. has not been made out, therefore, charge sheet filed against applicant under Section 447 I.P.C. is legally not sustainable.

28. For proper appreciation of the rival arguments raised on behalf of parties, amended Section 441 and 447 I.P.C. are of vital importance and the same are reproduced hereinbelow :-

"441. Criminal trespass.- *Whoever enters into or upon property in possession of another with intent to commit an offence or to intimidate, insult or annoy any person in possession of such property or, having lawfully entered into or upon such property, unlawfully remains there with intent thereby to intimidate, insult or annoy any such person, or with intent to commit an offence.*

*Or, having entered into or upon such property, whether before or after the coming into force of the Criminal Law (I.P. Amendment) Act, 1961, with the intention of taking unauthorised possession or making unauthorised use of such property fails to withdraw from such property, or its possession or use **when called upon to do so by that another person by notice in writing, duly served upon him, by the date specified in the notice, is said to commit "criminal trespass" - Uttar Pradesh Act No. 31 of 1961.***

(emphasis by the Court)

"Punishment for criminal trespass.

447. Whoever commits criminal trespass shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both."

29. It is quite clear from the perusal of above amended Section 441 I.P.C. that any person entered into possession of any property of another person before or after coming into force of the criminal law (U.P. Amendment Act, 1961), with the intention to take unauthorised possession or making unauthorised use of such property and fails to withdraw from such property or its possession or use in compliance of the written notice of another person duly served upon him by the date specified in the notice as said to committed "criminal trespass".

30. Admittedly, in this case no written notice as specified in the amended Section 441 I.P.C. to withdraw from such property or its possession or use of the land alleged to be of sealed by the Lucknow Development Authority i.e. opposite party no. 2 has been served on the applicant, therefore, there is no occasion for the applicant to comply with such notice and vice-versa failing to comply with the notice. As such no offence of "Criminal trespass" can be said to be committed. Overlooking these facts, charge sheet has been filed under Section 447 I.P.C. against the applicant, which is bad in the eyes of law. The accused cannot be punished for the offence which has actually not been committed by him.

31. In the above facts and circumstances, this Court is of the view that filing of charge sheet under Section 447 I.P.C. against the applicant is a serious abuse of process of the Court which must be prevented. Because on the basis of such legally defective charge sheet there is no possibility to end

the case in conviction of the applicant and whole exercise before the learned Trial Court will be mere wastage of time and resources in such futile exercise.

32. Even in the instant case, there is nothing in the summoning order to show that the Magistrate concerned perused the material available on record before passing summoning order. Hence the summoning order is bad in the eyes of law and resultantly it is not sustainable as the learned Magistrate failed to look into the oral as well as documentary evidence before the impugned order was passed.

33. Thus, in view of the law laid down by the Hon'ble Apex Court and the facts and circumstances, as narrated above and also with the assistance of the aforesaid guidelines and keeping in view the nature and gravity and the severity of the offence, it deems proper and meet to the ends of justice that the proceeding of the aforementioned case is liable to be quashed.

34. Accordingly, the present 482 Cr.P.C. application stands **allowed**. Keeping in view the law laid down by the Hon'ble Apex Court in the above referred judgment and in view of the submission made by learned counsel for the parties, the Charge Sheet of the Case Crime No.8/2012, under Section 447 I.P.C., Police Station Mahanagar, District Lucknow pending before the learned Additional Chief Judicial Magistrate-IV, Lucknow as well as summoning order dated 15.05.2012 alongwith entire proceedings of the case are hereby **quashed** so far as it relates to the instant applicant, namely, Waris Ali.

35. No order as to the costs.

36. Office is directed to transmit a copy of this order to the learned trial court concerned immediately for necessary compliance and information.

Order Date :- 31.05.2024

Saurabh

(Shamim Ahmed,J.)