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Reserved on:- 03.02.2026

Delivered on :- 12.05.2026

HIGH COURT OF JUDICATURE AT ALLAHABAD

APPLICATION U/S 482 No. - 9588 of 2016

Jwala Prasad And 3 Others

.....Applicant(s)

Versus

State Of U.P. And 3 Others

.....Opposite
Party(s)

Counsel for Applicant(s) : Firoz Haider, S.M. Iqbal Hasan, Syed
Badshah Husain Naqvi
Counsel for Opposite Party(s) : G.A., R.P.S. Chauhan

Court No. - 72

HON'BLE RAJIV LOCHAN SHUKLA, J.

1. Heard Sri S.M. Iqbal Hasan, Learned counsel for the applicants, Sri R.P.S. Chauhan, Learned counsel for the opposite party Nos.2 to 4, Sri Devesh Nath Tiwari, Learned A.G.A. for the State and perused the material brought on the record.

2. The applicant Nos.1 and 4 are stated to have died and the application as for the applicant Nos.1 and 4 is ***dismissed as abated***.

3. This application has been filed with a prayer to quash the entire charge sheet No.123 of 2015 dated 29.12.2015 (arising out of case crime No.174 of 2015), under Sections 420, 468, 471, 506 I.P.C., Police Station- Faizganj, Behta, District- Badaun as well as charge sheet No.124 of 2015 dated 29.12.2015 (arising out of case crime No.174A of 2015), under Sections 420, 468, 471, 506 I.P.C., Police Station- Faizganj Behta, District- Badaun.

4. The brief facts for the adjudication of the present case as appearing from the record, are given as follows:-

(i) The opposite parties Nos.2 & 3 filed separate applications under Section 156(3) Cr.P.C. for lodging the First Information Report against

the applicants. The contentions raised in the applications under Section 156(3) Cr.P.C. are almost similar in all respects. The two applications which were filed, were filed by the opposite party Nos.2 & 3 as they had purchased part of the disputed property through different sale deeds. The said First Information Report has been lodged against the same set of accused persons with same allegations. The allegations in brief are that the informants had purchased four shops at Orchi Chauraha from one Rakesh Kumar. After purchasing the said shops, when the informant supposedly went to take possession of the same then the accused Mahandi Hasan, Bhure Khan, Bhuri Begum and Jawla Prasad did not let the informant take possession of the shops. They instead supposedly showed a photocopy of a fake sale deed and threatened the informant with dire consequences. The informant is said to have verified the sale deed, so given, to him by the accused persons and the vendor Dayawati, who is said to have executed the said sale deed told the informant that it was fake. These applications under Section 156(3) Cr.P.C. was then directed to be registered as an F.I.R and a First Information Report being Case Crime No.174 of 2015 was lodged at Police Station- Faizganj Behta, District- Badaun, for offences under Sections 420, 467, 468, 471 & 506 I.P.C. The informant so far as Crime No.174/2015 is concerned, was the opposite party No.2 and for 174A/2015, was the opposite party No.3. The accused mentioned in the First Information Reports were then charge-sheeted and summoned to face trial. The First Information Report resulted in the filing of a charge-sheet being Charge-sheet No.123 of 2015, under Sections 420, 468, 471 & 506 I.P.C. and another Charge-sheet No.124 of 2015 arising out of Case Crime No.174A of 2015, under Sections 420, 468, 471 & 506 I.P.C. was filed, which is subject matter of challenge before this Court. This Court initially vide order dated 1.4.2016 refused to quash the charge-sheets and dismissed the application. The Supreme Court in **Criminal Appeal No.829 of 2016 (Jwala Prasad and Ors. Vs. State of U.P. and Ors.)**, vide its order dated 17.08.2016 set aside the order passed by this Court with the following directions:-

"We find that while considering the petition of the appellants under Sections 482 of the Code of Criminal Procedure, 1973, the High Court has passed stereotyped order without even taking note of the aforesaid facts and contentions raised by making general remarks that at this stage it cannot be said that no offence is made out against

the appellants. We may also record at this stage that cases after cases are coming to this Court from the High Court of Allahabad and in all such cases we find stereotyped orders, worded in identical terms, are passed. It is the minimum requirement that contentions raised in such petitions are noted and dealt with specifically. However, no such attempts are made. We are constrained to set aside the impugned order and remit the case back to the High Court for fresh disposal on merits by giving reasoning.

The appeal is disposed of accordingly."

(ii) It is after the above-mentioned directions that the matter has been placed before this Court for decision. Before proceeding to consider the rival contentions raised before this Court at the time of the arguments, it would be appropriate to record in this order the observations of the Supreme Court with respect to the contentions raised before it on behalf of the applicants:-

"The appellants are facing trial in charge-sheet No.123/2015 dated 29.12.2015 in case No.112/2015 filed under Sections 420, 468, 471 and 506 of the Indian Penal Code (IPC) as well as charge-sheet No. 124/2015 dated 29.12.2015 in case No.113/2015 filed under Sections 420, 468, 471 & 506 IPC. Thus, both the charge-sheets are under the same provisions and based on identical allegations. The appellants filed a petition under Section 482 of the Code of Criminal Procedure, 1973 for quashing of these charge-sheets. The case set up by the appellants was that they had entered into a sale deed dated 24.02.2005 with respondent No.4. As per the sale deed respondent No.4 had agreed to sell the scheduled property consisting of 5 shops to the appellants. It was also stated that the appellants were in possession of these shops since 1990 and the possession was given by respondent No. 4. The appellants carried out construction these shops and the cost of construction was to be adjusted against rent that are payable. As per the appellants, this sale deed could not be registered due to the dilatory tactics adopted by respondent No.4. It was also stated that respondent No.4 came to these shops on 18.09.2007 with one Rakesh Kumar and two others and tried to take physical possession of the shops alleging that she had sold these shops to Rakesh Kumar. In these circumstances, the appellants were forced to file a suit for injunction against respondent No.2, 4 and Rakesh Kumar. It transpired that vide sale deed dated 14.03.2013 Rakesh Kumar had sold 1/4th of his purported share in the 5 shops and vide sale deed dated 26.02.2014 he also sold his

remaining share to respondent No.2 and respondent No.3. It is only thereafter respondent No.2 lodged FIR No.174/2015 under Sections 420, 467, 468, 471 & 506 IPC against the appellants alleging therein that when respondent No.2 went to take physical possession of the shops, she was resisted by the appellants. It was alleged that the appellants showed forged and fabricated documents. To similar effect is the second FIR lodged by respondent No.3. It may also be mentioned that the appellants had even filed a case for cancellation of sale deed dated 14.03.2013 on 29.05.2015. Giving this background, the case set up by the appellants before the High Court was that the FIRs were nothing but a counterblast and the prosecution cases were filed with mala fide intentions just to harass the appellants who are in possession of the said shops since 1990 and thereafter even agreement to sell was executed between them and respondent No.4 on 24.02.2025."

(iii) Some further facts which appear from the perusal of the record indicate that civil suits have also been filed by the parties and a civil suit being O.S. No.194/2007 has been filed by the applicant Mahandi Hasan, against Dayawati, Vikky, Rakesh Kumar and Vinay Kumar. The said civil suit was filed seeking a permanent injunction against the defendants for prohibiting them from taking possession of the property demarcated in the plaint without following due procedure prescribed under the law. Another civil suit said to have been registered as Misc. Case No.165 of 2015 is said to have been filed by the applicants for cancellation of the sale deed dated 14.03.2013 executed in favour of Lalit Kumari by Rakesh Kumar, the opposite party No.2. The previous owner of the property, Rakesh Kumar, whose claim is being contested by the applicants, had filed four suits being O.S. No.98 of 2010 against the applicant No.3 Smt. Bhoori Begum, O.S. No.99 of 2010 against the applicant No.1 Jwala Prasad, O.S. No.100 of 2010 against the applicant No.4 Mahandi Hasan and O.S. No.101 of 2010 against the applicant No.2 Bhurey Khan, for seeking possession over the shops in question. The suits in question are said to have been decreed on 21.03.2016 and restoration applications were filed separately by the defendants/applicant Nos.1, 3 & 4, which were allowed by the Learned Civil Judge (Senior Division) Fast Track Court, Badaun vide separate orders dated 23.08.2017. These orders have been set aside by the District Judge, Badaun in separate orders dated 17.02.2018 passed in Civil Revision No.41 of 2017 (*Rakesh Kumar Vs. Jwala Prasad*), Civil

Revision No.42 of 2017 (*Rakesh Kumar Vs. Bhoori Begum*), Civil Revision No.43 of 2017 (*Rakesh Kumar Vs. Mahandi Hasan*) and the matter was remitted back for reconsidering the restoration applications. Execution Nos.1 of 2016, 2 of 2016 and 3 of 2016 are said to have been filed for O.S. Nos.100 of 2010, 98 of 2010 and 99 of 2010, respectively before the Civil Judge (Senior Division), Fast Track Court, Badaun. Another execution case being Execution Case No.4 of 2016 was filed for execution of decree passed in O.S. No.101 of 2010, in which the applicant Bhurey Khan is said to have entered into a compromise and on the basis of the said compromise, physical possession of the shop in question was handed over to Mr. Rakesh Kumar and the Execution Case was finally decided vide order dated 14.11.2018. Another fact which is necessary to be noticed here, which has been brought forth on record by means of the counter affidavit is that one of the beneficiaries of the unregistered deed, which was to be executed by Dayawati as contended by the applicants before the Supreme Court, Shubhash Chandra s/o Naurangi Lal purchased one shop from Rakesh Kumar through a registered deed dated 20.5.2013. The said sale deed executed by Rakesh Kumar in favour of Shubhash Chandra has not been challenged.

5. The Learned counsel for the applicants has reiterated the submissions as recorded in the order of the Supreme Court and has further contended that the proceedings are malicious. The First Information Report was not lodged by Smt. Dayawati. The summoning order is a cryptic order which shows non application of mind. Two suits had been filed, one for permanent injunction and second for the cancellation of sale deed, as such there was no question of the applicants being an illegal occupants. There was no evidence of any assault. The document i.e. the unregistered sale deed was executed by Smt. Dayawati and she had not authorized the opposite party Nos.2 & 3 to file any suit.

6. Learned counsel for the informant, Sri R.P.S. Chauhan stated that it is a case of grabbing of property by the accused applicants. Relying upon the Khatunies of the property in question, he contends that the property was admittedly recorded in favour of Smt Dayawati and Rajendra Kumar. The property, he argues was purchased jointly by Smt. Dayawati and her husband Rajendra Kumar from its earlier owners Abdul Hussain and Ali

Sher, sons of Khuda Baksh through a registered sale deed dated 27.8.1987. The names of Smt. Dayawati and her husband Rajendra Kumar were mutated in the revenue records by the order of the competent authority. It is further contended that after the death of Rajendra Kumar, Smt. Dayawati became the absolute owner of the property. Over the property in question, 6 shops had been constructed and one shop was sold by Smt. Dayawati to Mr. Brijendra Kumar resident of Village - Nawabpura, Tehsil - Bisauli, District Budaun. The other five shops were sold by Smt. Dayawati, the opposite party No.4, to Rakesh Kumar son of Lakshmi Narayana through a registered sale deed dated 24.8.2007. The said sale deed has not been cancelled by any Court and the registered sale deed executed by Smt. Dayawati in favour of Sri Rakesh Kumar has not been challenged by the applicants before any competent Court of law.

7. The Learned counsel for the informant further contends that in the civil suit for permanent injunction being O.S. No. 194 of 2007, the sale deed dated 24.08.2007 has not been challenged. He further contends that the disputed document i.e. the unregistered sale deed that has been filed as Annexure No.1 to the affidavit dated 23.12.1999 is a forged document and in the Forensic Sciences Report, the signatures of Smt. Dayawati were found to be forged. Learned counsel for the informants further contends that Smt. Dayawati had also stated on oath before the Learned Magistrate in the statement recorded under section 164 Cr.P.C., wherein she clearly denied the stamp papers shown by Mahandi Hasan and others. She has clearly stated that she had not made any signatures on any such stamp paper and her fake signatures had been made. She in her statement has clearly stated that she had sold the shops in question to Rakesh Kumar and thereafter, Rakesh Kumar had sold the same to Lalit Kumari and her son Vipin Kumar. The Learned counsel for the informants further argues that the prayer of the application before this Court only challenges the charge sheet and not the entire proceedings. In the present case, he submits that neither the cognizance nor the summoning order has been challenged and even the order framing charges has not been challenged. He further contends that the statement of P.W.-1 has also been recorded by the concerned trial Court and as such, this application is not maintainable as the order framing charges refusing to discharge the

applicants has not been challenged.

8. The Learned A.G.A. has also supported the contentions raised by the Learned counsel for the informants and has further contended that once the statement of witnesses has been recorded, it would not be appropriate to consider the challenge to the charge-sheet especially in the light of the fact that no amendment in the pleadings seeking quashing of the order framing charges or cognizance and summoning has been sought by the applicants.

9. I have considered the submissions made by the Learned counsels for the parties and perused the material brought on the record.

10. From the material available on the record, it transpires that admittedly the property in question belongs to Smt. Dayawati. Both the parties claim their title from Smt. Dayawati and as such admittedly Smt. Dayawati is the owner of the said property. The document being relied upon by the applicants to substantiate the claim regarding the property having been sold to the applicants and mere registration of the deed was left, has been denied by Smt. Dayawati. Smt. Dayawati in her statement recorded under section 164 Cr.P.C.during investigation has stated as follows:-

"श्रीमती दयावती पत्नी स्व राजेन्द्र कुमार वाष्णेय नि० मौ० फर्रुखाबादी बाजार निकट घंटाघर कसबा व थाना चन्दौसी जिला सम्भल- पीड़िता/गवाह श्रीमती दयावती पत्नी राजेन्द्र कुमार वाष्णेय उम्र 76 वर्ष नि० फर्रुखाबादी बाजार निकट घंटाघर कसबा व थाना चन्दौसी जिला सम्भल का आई०ओ० अभिलाष त्यागी धारा 164 सी०आर०पी०सी० का बयान दर्ज कराने हेतू न्यायालय में उपस्थित किया गया। पीड़िता ने सशपथ बयान किया कि मेरे नाम ओरछी चौराहे थाना फैजगंज बेहटा में 6 दुकाने थी मैंने यह सब दुकाने किराये पर उठा रखी थी मैंने यह समस्त दुकाने सन् 2014 में राकेश पुत्र ब्रज किशोर नि० चन्दौसी को बेच दी थी उक्त किरायेदार मेंहदी हसन डाक्टर मरफी आदि को मैंने कोई दुकाने नहीं बेची है। न ही मैंने इनके पक्ष में किसी विक्रय पत्र पर हस्ताक्षर किये है। अन्य किरायेदार के नाम मैं नहीं बता सकती क्योंकि मेरे पति ही सब काम काज देखा करते थे अपने पति को मृत्यु के बाद मैंने यह दुकाने राकेश को बेच दी थी मेरे पति की मृत्यु को पाँच छः साल हो चुके है। मेहदी हसन आदि ने जो स्टाम्प दिखाये है। यह सब झूठे है मैंने इन स्टाम्प पर कोई हस्ताक्षर नहीं किये है। मेरे हस्ताक्षर फर्जी बनाये गये हैं मैंने सुना है कि राकेश ने यह दुकाने ललित कुमारी व उसके बेटे विपिन कुमार को बेच दी है। सुनकर तस्दीक किया हस्ताक्षर दयावती पीड़िता के बोलने पर उसका बयान अक्षरशः मेरे द्वारा लिखा गया हस्ताक्षर मजि०।"

11. Forensic Sciences Laboratory Report with respect to the handwriting on the disputed document which is said to be the unregistered sale deed

did not match with the signatures of Smt. Dayawati. This Court, however, while considering the challenge to the charge sheet would not go into the correctness of the material that was collected during investigation. Smt Dayawati, who is undoubtedly the owner of the property, has clearly in her statement recorded under Section 164 Cr.P.C. denied the execution of the said document. Furthermore, the document being relied upon by the applicants is admittedly an unregistered document. The main thrust of the challenge, in the opinion of the Court, appears to be that proceedings relate to civil dispute and therefore, no criminal proceeding would lie. The facts of the case suggest that the property which admittedly belong to Smt. Dayawati was sold by Smt. Dayawati to Sri Rakesh Kumar. The sale deed dated 24.8.2007 by Smt. Dayawati remains unchallenged. The challenge that has been made is to the sale deed executed by Rakesh Kumar.

12. Of the five beneficiaries of the sale deed supposedly executed by Smt Dayawati in favour of the applicants, Subhash Chandra purchased one shop from Rakesh Kumar through the registered sale deed dated 20.5.2013. Even the applicant No.2 had entered into a compromise and handed over the possession of the shop to the decree holder Rakesh Kumar in Original Suit No.101/2010. There is no interim order operating in favour of the applicants. The suits, as noticed in the earlier part of this order, were decreed in favour of Rakesh Kumar. In the present case charges have also been framed and statement of P.W.-1 has also been recorded before the trial Court. In the opinion of the Court, a *prima facie* case of forgery of the said unregistered sale deed is made out against the applicants from the record.

13. The Supreme Court in the case of **State of Haryana Vs. Bhajan Lal**, reported in **1992 SCC (Cri) 426** has laid down the parameters for quashing of the proceedings and the First Information Report, which reads as follows:-

"102. In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers under Section 482 of the Code which we have extracted

and reproduced above, we have given the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.

- (1) 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.*
- (2) 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 Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.*
- (3) 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.*
- (4) 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 Section 155(2) of the Code.*
- (5) 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.*
- (6) 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.*
- (7) 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.*

14. However, a note of caution has also been mentioned in the above-mentioned judgement in paragraph No.103, which reads as follows:-

"103. We also give a note of caution to the effect that the power of quashing a criminal proceeding should be exercised very sparingly and with circumspection and that too in the rarest of rare cases; that the court will not be justified in embarking upon an enquiry as to the reliability or genuineness or otherwise of the allegations made in the FIR or the complaint and that the extraordinary or inherent powers do not confer an arbitrary jurisdiction on the court to act according to its whim or caprice."

15. From the perusal of the material on record, it cannot be said that no offence is made out against the applicants. The contentions that the proceedings are malicious in nature and have not been instituted by Smt Dayawati, in the opinion of the Court, also does not hold force, inasmuch as Smt. Dayawati was examined during investigation and even her statement under Section 164 Cr.P.C. was recorded. So far as the summoning order being cryptic showing non application of mind is concerned, no amendment had been sought in this application seeking to challenge the cognizance and summoning order nor has the order framing charges been challenged before this Court. In the opinion of this Court, this ground has been raised as an afterthought without making necessary amendment in the pleadings. The specific contention that two suits have been filed on behalf of the applicants and they are not illegal occupant, in the opinion of the Court, is not to be considered as the applicants are being prosecuted for cheating and forgery, not for illegal occupation of the property in question. The question regarding Smt. Dayawati having not authorized the opposite parties to file suit is similarly of no consequence in these proceedings as Smt. Dayawati had been examined during investigation and has substantiated the stand taken by the informants. The assertions that there is no evidence of assault also cannot be taken note of at this stage, once due opportunity to contend what offences are made out had been given to the applicants, at the time of order framing charges and the order framing charges has also not subjected to challenge before this Court.

16. The Learned counsel for the applicants contends that the summoning order is a non-speaking order and relies upon the decision of the Supreme Court in the case of **M/s. JM Laboratories And Others Vs. State of Andhra Pradesh and Another** reported in **2025 SCC OnLine SC 208**.

Specifically paragraph Nos.8 & 9, which relies upon the earlier decisions of the Supreme Court. Paragraph Nos.8 & 9 of the above-mentioned decision, are reproduced hereinbelow:-

"8. In the judgment and order of even date in criminal appeal arising out of SLP (Crl.) No. 2345 of 2024 titled "INOX Air Products Limited Now Known as INOX Air Products Private Limited and Another v. The State of Andhra Pradesh", we have observed thus:

"33. It could be seen from the aforesaid order that except recording the submissions of the complainant, no reasons are recorded for issuing the process against the accused persons.

34. In this respect, it will be relevant to refer to the following observations of this Court in the case of Pepsi Foods Ltd. and Another vs. Special Judicial Magistrate and Others (1998) 5 SCC 749 (supra):

"28. Summoning of an accused in a criminal case is a serious matter. Criminal law cannot 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 of the accused. The Magistrate has to carefully scrutinise 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."

35. This Court has clearly held that summoning of an accused in a criminal case is a serious matter. It has been held that 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. This Court

held that the Magistrate is required to examine the nature of allegations made in the complaint and the evidence, both oral and documentary in support thereof and as to whether that would be sufficient for proceeding against the accused. It has been held that the Magistrate is not a silent spectator at the time of recording of preliminary evidence before summoning the accused.

36. The said law would be consistently following by this Court in a catena of judgments including in the cases of Sunil Bharti Mittal v. Central Bureau of Investigation (2015) 12 SCC 420 and Krishna Lal Chawla and Others v. State of Uttar Pradesh and Another (2021) 5 SCC 435.

37. Recently, a Bench of this Court to which one of us (Gavai, J.) was a Member, in the case of Lalankumar Singh and Others v. State of Maharashtra 2022 SCC OnLine SC 1383 (supra), has observed thus:

"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 Investigation⁹, 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."

39. A similar view has been taken by this Court in the case of Ashoke Mal Bafna (supra).

40. In the present case, leaving aside there being no reasons in support of the order of the issuance of process, as a matter of fact, it is clear from the order of the learned Single Judge of the High Court, that there was no such order passed at all. The learned Single Judge of the High Court, based on the record, has presumed that there was an order of issuance of process. We find that such an approach is unsustainable in law. The appeal therefore deserves to be allowed."

9. In the present case also, no reasons even for the namesake have been assigned by the learned Magistrate. The summoning order is totally a non-speaking one. We therefore find that in light of the view taken by us in criminal appeal arising out of SLP (Crl.) No. 2345 of 2024 titled "INOX Air Products Limited Now Known as INOX Air Products Private Limited and Another v. The State of Andhra Pradesh", and the legal position as has been laid down by this Court in a catena of judgments including in the cases of Pepsi Foods Ltd. and Another v. Special Judicial Magistrate and Others, (1988) 5 SCC 749 : 1997 insc 714, Sunil Bharti Mittal v. Central Bureau of Investigation, (2015) 4 SCC 609 : 2015 insc 18, Mehmood U1 Rehman v. Khazir Mohammad Tunda and Others, (2015) 12 SCC 420 : 2015 insc 983 and Krishna Lal Chawla and Others v. State of Uttar Pradesh and Another, (2021) 5 SCC 435 : 2021

insc 160, the present appeal deserves to be allowed."

17. The Learned counsel for the applicants further relies upon the judgement of the Supreme Court in the case of **Lalankumar Singh & Ors. Vs. State of Maharashtra** reported in **2022 SCC OnLine SC 1383**. Paragraph No.28 of the above-mentioned judgment is quoted hereinbelow:-

"28. 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** :*

** See (2015) 191 Comp Cas 177 (SC) ; (2015) 4 SCC 609.*

*** See page 213 of 191 Comp Cas.*

"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.

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.

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."

18. Relying upon the above-mentioned judgments, the Learned counsel for the applicants submits that the order taking cognizance and summoning the accused is not in consonance with the law declared by the Supreme Court and must necessarily be quashed.

19. As had been noticed above, the order taking cognizance and summoning the applicants has not been made the subject matter of challenge before this Court. Even otherwise, once the charges have been framed and the applicants had an opportunity to seek discharge, the challenge to the summoning order post framing of charges, that too without the necessary prayer, in the opinion of the Court, is not liable to be entertained.

20. The Learned counsel for the applicants relying upon a decision of the High Court of Judicature at Patna in **Criminal Miscellaneous No.37331 of 2016 (Pannalal Sah @ Pannalal Prasad Vs. Mukesh Singh)** has contended that the change of stage in a criminal proceeding would not render the petition under Section 482 Cr.P.C. for quashing the cognizance order infructuous. Relying upon Paragraph No.13 of the said decision, he contends that in the prayer, he has challenged the charge-sheets and all further proceedings can be quashed by this Court and the present application under Section 482 Cr.P.C. has not become infructuous.

21. The application under Section 482 Cr.P.C. becoming infructuous by efflux of time or change of proceedings is not the issue that has been raised by the Learned counsel for the informants. What has been contended is that the cognizance and summoning order has not been challenged nor the subsequent order, where charges have been framed. In the opinion of the Court, once a statutory right to seek discharge was available to the applicants and they either chose not to exercise the said right or were unsuccessful in their challenge and thereafter the trial Court framed charges and the trial is in progress, this Court would not then exercise its discretionary power to quash the proceedings solely on the

basis of the material collected in the police investigation. Even otherwise, this application has been pending since 2016 and there was ample opportunity to the applicants to move appropriate applications seeking amendment in the pleadings or invoking the powers of this Court for challenging the judicial orders taking cognizance and summoning the accused as well as the order framing charges against them. The applicants by choosing not to challenge the said orders, would then not be allowed to contend that merely because the application under Section 482 Cr.P.C. does not become infructuous by change of stage of the criminal proceeding, the proceedings may still be considered on the same materials and grounds, which have been turned down by a competent trial Court and whose orders have not been subjected to challenge before the High Court.

22. On a broad perusal of the entire facts and circumstances of the case, a *prima facie* case against the applicants is made out. There is no good ground for quashing the charge sheet and this application is, therefore, ***dismissed.***

23. There shall be no order as to costs.

(Rajiv Lochan Shukla,J.)

May 12, 2026

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