

Court No. - 85

Case :- APPLICATION U/S 482 No. - 16735 of 2021

Applicant :- Anil Srivastava And Another

Opposite Party :- State of U.P. and Another

Counsel for Applicant :- Deepak Singh

Counsel for Opposite Party :- G.A.

Hon'ble Gautam Chowdhary,J.

The present application u/s 482 Cr.P.C. has been filed challenging the charge-sheet dated 02.06.2021 and summoning order dated 02.08.2021 as well as criminal proceedings of Session Case No. 4895 of 2021 (State Vs. Anil Srivastava), arising out of Case Crime No. 151 of 2021, under Sections 323, 504 IPC and Section 3(1)D, 3(1)Dha of S.C./S.T. Act, Police Station Kalyanpur, District Kanpur Nagar.

Counsel for the applicant confines his arguments to the first part of the submission that the summoning order is bereft of application of mind and has been passed on the cyclostyled copy. He thus argues that the summoning order suffers from the vice of non-application of mind and therefore is liable to be set aside on that ground alone. In support of his submission, he placed reliance on the judgment of the Supreme Court in the case of **Megh Nath Gupta & another Vs. State of U.P. and another, 2008 (62) ACC 826** as well as Single Judge judgment and order passed by this Court in the case of **Ankit Vs. State of U.P. and another [(2009) (9) ADJ 778]** on an **Application No. 19647** of 2009 filed under Section 482 CrPC on 15.10.2009. He, thus, argues that the summoning order is liable to be set aside in view of the well settled law of this Court. He also placed before me several orders passed by this Court whereby similar orders have been set aside by this Court and the matters have been remanded before the Trial Court for fresh orders in accordance with law.

A perusal of the summoning order impugned in the present proceedings clearly demonstrates that there was no application of mind whatsoever prior to the passing of the summoning order, which has been repelled by this Court in various judgments.

In view of the categorical pronouncements of this Court, the

impugned order dated 02.08.2021 passed by court below is set aside and the matter is remanded before the court concerned for passing fresh orders of summoning and cognizance if it deems fit.

Consequently, the application is allowed in part and the order dated 02.08.2021 is set aside in terms of the order passed above.

Let a copy of this order be sent to the court concerned for its compliance as stated above.

Order Date :- 29.10.2021

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