

Court No. - 81

Case :- APPLICATION U/S 482 No. - 18422 of 2020

Applicant :- Sanjay And 3 Others

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

**Counsel for Applicant :- Ravitendra Pratap Singh
Chandel, Azhar Hussain**

Counsel for Opposite Party :- G.A.

Hon'ble Mrs. Manju Rani Chauhan, J.

On the matter being taken up, on 6th January, 2021, following order was passed by this Bench:

"This application under Section 482 Cr.P.C. has been filed for setting aside the order dated 25.08.2020 passed by Chief Judicial Magistrate, District Agra and for quashing the entire proceedings of the Case Crime No. 0714 of 2019, (Sanjay and others vs. State of U.P.), under Sections 498A, 323 IPC and Section 3/4 D.P. Act, Police Station- Sadar Bazar, District- Agra, pending in the Court of Chief Judicial Magistrate, Agra.

Learned counsel for the applicants submits that the cognizance/summoning order dated 25.08.2020 has been passed by the Chief Judicial Magistrate, District Agra without applying his judicial mind on a printed format and the same is vague, ambiguous and nullity. He next submits that perusal of the summoning order indicates that except for directing the office to summon the applicants, absolutely no reasons have been mentioned in support thereof. He further submits that it is settled law that every orders are to be judged on reasons recorded therein. He further submits that despite various orders of this Court passed on the judicial side as well as on the administrative side, such orders on a printed proforma are being passed by the subordinate courts. He, therefore, submits that summoning order be set aside.

Learned A.G.A. does not dispute the correctness of the submissions made by the learned counsel for the applicants and he has no objection if the summoning order is set aside.

After considering the submissions made by the learned counsel for the parties and going through the records of the present application, this Court finds that the cognizance/summoning order dated 25.08.2020 has been passed by the Chief Judicial Magistrate, District Agra without application of mind on a printed format.

Such cognizance/summoning orders passed on a printed proforma has already been set aside by this Bench while passing a detailed order dated 11th November, 2020 in Application U/s 482 No. 41617 of 2019 (Vishnu Kumar Gupta & another vs. State of U.P. and another). Apart from the above, various Benches of this Court on judicial side have passed orders directing the subordinate courts to pass such cognizance/summoning orders with application of mind giving satisfactory reasons. This Court on the administrative side has also issued circulars to the subordinate courts from time to time restraining them from passing cognizance/summoning

orders on a printed proforma without application of mind.

Normally, this Court would have set aside such cognizance/summoning orders and directed the court below to pass a fresh orders by giving reasons, but this Court finds that despite repeated orders of this Court on judicial side as well as administrative side, everyday various applications under Section 482 Cr.P.C. are being filed before this Court challenging the cognizance/summoning orders passed on a printed proforma, which takes precious time of this Court.

This Court, therefore, directs the Chief Judicial Magistrate, District Agra to send his report by the next date after calling for comments of the concerned Magistrate as to why such orders are being passed on a printed proforma, despite various orders of this Court.

Let this matter be put up on 15th January, 2021 as fresh.

The Registrar General is directed to communicate this order to the Chief Judicial Magistrate, District Agra within 24 hours for necessary compliance.

Till the next date of listing, no coercive action shall be taken against the applicants."

Pursuant to the above order, a letter dated 13th January, 2021 has been sent by the Chief Judicial Magistrate, Agra along with the explanation, who has passed the cognizance/summoning order on a printed proforma.

In the explanation given by the concerned Magistrate, it has been submitted that due to huge work-load and by mistake, he/she passed the cognizance/summoning order on a printed proforma for which he/she has tendered his unconditional apology.

The explanation given by the concerned Magistrate is not acceptable because if a Judge makes such a mistake, then from where will the general public get fair justice. A Judge acts like a God, he/she should not make mistakes due to haste or excess of work. How will a normal man get justice when a judge makes a mistake because of the excess of his/her work? At the present time, only from the temple of justice like Courts, everyone hopes for right and fair justice.

However, it would not be in the interest of justice to proceed further against the concerned Magistrate, keeping the present application pending. Therefore, this Court warns the concerned Judicial Magistrate to remain more careful and cautious in future while passing any judicial orders. The Chief Judicial Magistrate, Agra shall ensure that such orders on a printed proforma are not passed by any judicial officers of Judgeship Agra.

Now, this Bench comes on the merits of the present application.

This application under Section 482 Cr.P.C. has been filed for setting aside the order dated 25.08.2020 passed by Chief Judicial Magistrate, District Agra and for quashing the entire proceedings of the Case Crime No. 0714 of 2019, (Sanjay and others vs. State of U.P.), under Sections 498A, 323 IPC and Section 3/4 D.P. Act, Police Station- Sadar Bazar, District- Agra, pending in the Court of Chief Judicial Magistrate, Agra.

Today, learned counsel for the applicants has confined his relief to set aside the cognizance/summoning order dated 25.08.2020. Learned counsel for the applicants submits that the cognizance/summoning order dated 25.08.2020 has been passed by the learned Chief Judicial Magistrate, Agra without applying his judicial mind on a printed format and the same is vague, ambiguous and nullity. He next submits that the perusal of the cognizance/summoning order indicates that except for directing the office to summon the applicants, absolutely no reasons have been mentioned in support thereof. He further submits that it is settled law that every orders are to be judged on reasons recorded therein. He therefore, submits that cognizance/summoning order be set aside.

Learned A.G.A. does not dispute the correctness of the submissions made by the learned counsel for the applicants and he has no objection if the cognizance/summoning order is set aside.

I have considered the submissions made by the learned counsel for the parties and have gone through the records of the present application. It is an admitted position that the cognizance/summoning order dated 25.08.2020 has been passed without application of mind on a printed format. Such summoning orders passed on a printed proforma has already been set aside by this Court while passing a detailed order dated 11th November, 2020 in Application U/S. 482 No. 41617 of 2019 (Vishnu Kumar Gupta & Another Vs. State of U.P. & Another).

Accordingly, for the reasons recorded in the case of Vishnu Kumar Gupta (Supra), cognizance/summoning order dated 25.08.2020 is set aside. The Chief Judicial Magistrate, Agra after perusing the entire records shall pass a fresh speaking and reasoned order, in accordance with law, preferably within two months from the date of production of a certified copy of this order.

With the aforesaid directions/observations, this application

stands allowed.

Office is directed to send a copy of this order to the learned Chief Judicial Magistrate, Agra within a week.

Order Date :- 18.1.2021

Priya