

Mohd Maroof And Another vs State Of U.P. And Another on 16 February, 2024

HIGH COURT OF JUDICATURE AT ALLAHABAD

?Neutral Citation No. - 2024:AHC:26760

Court No. - 89

Case :- APPLICATION U/S 482 No. - 39317 of 2023

Applicant :- Mohd Maroof And Another

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

Counsel for Applicant :- Mohammad Farooque Ansari

Counsel for Opposite Party :- G.A.

Hon'ble Mrs. Sadhna Rani (Thakur),J.

Heard learned counsel for the applicants, learned A.G.A. and perused the record.

In compliance of order dated 01.02.2024, learned A.G.A. has not received the instructions.

Going through the matter in dispute there is no need to seek any instructions by the learned A.G.A.

By moving this application under Section 482 of Cr.P.C., the prayer is made to quash the entire proceedings of Case No.16899 of 2023 (State Versus Maroof) under Section 59(i) of Food Safety and Standards Act, 2006, Police Station Gal Shaheed, District Moradabad, pending in the court of Additional Chief Judicial Magistrate-1, Moradabad.

It is argued by the learned counsel for the applicants that this is a case under Food Safety and Standards Act, 2006. The complaint was filed by the competent officer, which is appended at

page-24 of the paper book and on this complaint the A.C.J.M. concerned has written only two words 'darj register'. It is submitted that this order dated 09.05.2023 is a non-speaking order. The court has not taken cognizance in the matter, the A.C.J.M. concerned has not noted his satisfaction also. Nothing has been mentioned regarding the offence against the applicants and without passing any order for summoning the accused directly vide order dated 09.06.2023 bailable- warrants of Rs.20,000/- have been issued against the applicants.

Learned A.G.A., however, accepted that the order dated 09.05.2023 is a non-speaking order.

From the perusal of the record, it is found that a complaint was registered against the applicants, whereon the concerned Additional Chief Judicial Magistrate vide order dated 09.05.2023 ordered to register the complaint. After this order dated 09.05.2023, vide order dated 09.06.2023 directly the bailable warrants Rs.20,000/- have been issued against the applicants. It is not disputed that directly bailable warrants can be issued against the applicants rather the argument of the learned counsel for the applicants is that without taking cognizance no process can be issued against the applicants.

This Court finds force in the argument of the learned counsel for the applicants. The trial court only registered the complaint but did not mention its satisfaction that a prima facie case is made out against the applicants to summon them under the mentioned sections. The magistrate does not appear to apply his mind whether any sufficient ground for proceeding against the applicants exists in the case or not, while the opinion of the magistrate in this regard is must for summoning an accused.

In the opinion of the Court, the order dated 09.05.2023 being a cryptic and non-speaking order is liable to be set aside. The order dated 09.05.2023 is set aside.

The trial court is directed to pass a fresh and speaking order on the point mentioning its satisfaction regarding summoning/ non-summoning of the applicants in the mentioned sections.

The application under Section 482 of Cr.P.C. is allowed, accordingly.

Order Date :- 16.2.2024 Radhika