

# **Sandeep Singh vs State Of U.P. And Another on 28 February, 2023**

**Author: Rajeev Misra**

**Bench: Rajeev Misra**

HIGH COURT OF JUDICATURE AT ALLAHABAD

?Court No. - 66

Case :- APPLICATION U/S 482 No. - 7338 of 2023

Applicant :- Sandeep Singh

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

Counsel for Applicant :- Shailendra Kumar Tripathi

Counsel for Opposite Party :- G.A.

Hon'ble Rajeev Misra,J.

Heard Mr. Abhinav Dwivedi, Advocate, holding brief of Mr. S.K. Tripathi, the learned counsel for applicant and the learned A.G.A. for State.

Challenge in this application under section 482 Cr.P.C. is to the Summoning Order dated 27.3.2019, passed by Additional Chief Judicial Magistrate, Kannauj in Case No. 287 of 2019 (State Vs. Sandeep Singh) under Sections 58 and 59 Food Safety and Standards Act, 2006, Police Station- Gursahainj, District Kannauj, pending in the Court of Additional Chief Judicial Magistrate, Kannauj.

Learned counsel for applicant submits that impugned Cognizance Taking Order/Summoning Order dated 27.3.219, passed by Additional Chief Judicial Magistrate, Kannauj, in aforementioned complaint case is manifestly illegal. Perusal of summoning order goes to show that recital contained therein is factually incorrect, inasmuch as cognizance was taken upon charge sheet submitted by

Investigating Officer and not upon the complaint filed by complainant/opposite party-2. He, therefore, submits that before taking Cognizance concerned Magistrate has not adverted to the facts and circumstances of the case. Learned counsel for applicant thus submits that order impugned in present application is not only illegal, unjust but also arbitrary. Same is therefore liable to be quashed by this Court.

Per contra, the learned A.G.A. does not oppose the submissions urged by learned counsel for applicant. He submits that once the complaint was filed by Food Inspector, then no cognizance was required to be taken but only summoning order was required to be passed by concerned Magistrate.

Having heard the learned counsel for applicant the learned A.G.A. for State and upon perusal of record this Court finds that for the facts noted above, impugned Cognizance Taking Order/ Summoning order dated 27.3.2019, cannot be sustained.

As such, application is allowed. Order impugned dated 27.3.2019, passed by Additional Chief Judicial Magistrate, Kannauj in Case No. 287 of 2019 (State Vs. Sandeep Singh) under Section 58 and 59 Food Safety and Standards Act, 2006, Police Station- Gursahainj, District Kannauj, pending in the Court of Additional Chief Judicial Magistrate, Kannauj is hereby quashed. Matter is remanded to Court below for decision afresh. Concerned Magistrate, shall pass a fresh order within a period of one month from the date of presentation of a certified copy of this order.

Order Date :- 28.2.2023 Arshad