

(2005) 02 AHC CK 0091

In the Allahabad High Court

Case No : Criminal Miscellaneous Writ Petition No. 1958 of 2005

Baboo Ram and Others

APPELLANT

Vs

State of U.P. and Shiv Shanker

RESPONDENT

Date of Decision : 25-02-2005

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 200, 202
Penal Code, 1860 (IPC) — Section 406, 420, 467, 504, 506

Citation : (2005) 02 AHC CK 0091

Hon'ble Judges : Ravindra Singh, J

Bench : Single Bench

Advocate : P.K. Yadav, for the Appellant; A.G.A., for the Respondent

Judgement

Ravindra Singh, J.—Heard Sri P.K. Yadav learned counsel for the petitioners and learned A.G.A.

2. This petition has been filed against the order dated 05.03.2003 passed by learned Chief Judicial Magistrate, Farrukhabad in Criminal Complaint Case No. 265 of 2003, Shiv Shankar v. Babu Ram and Ors. taking the cognizance and summoning the petitioners to face the trial for the offences punishable under Sections 420, 406, 467, 504 and 506 I.P.C. and the order dated 9.4.2004 passed by the learned Sessions Judge, Farrukhabad in Criminal Revision No. nil of 2004.

3. It is contended by learned counsel for the petitioners that the respondent No. 2 filed a complaint against the petitioners. The statement of the complainant respondent No. 2 was recorded u/s 200 Cr. P. C. and the statement of the witnesses were recorded u/s 202 Cr. P. C. Thereafter, the learned C.J.M. took the cognizance and summoned the petitioners to face the trial for the abovementioned offences on 5.3.2003. the impugned order dated 5.3.2003 is illegal, because the allegations in brief made against the petitioners have not been mentioned in the impugned order. The order was passed in routine and mechanical manner. The learned Sessions Judge also did not consider this manifest error committed by the Magistrate and dismissed the revision on

9.4.2004.

4. This contention has been opposed by learned A.G.A. by stating that on the basis of the allegations made against the petitioners prima facie offence is made out and there is a sufficient material to proceed further against the petitioners, therefore, there is no illegality or irregularity in the impugned orders.

5. From the perusal of the order-dated 5.3.2003, it appears that the learned C.J.M. has not given the reference of the allegations made against the petitioners and it is not a reasoned order. It appears that the learned Magistrate has passed this order in a routine and machanical maner without applying his judicial mind. The learned Magistrate is under obligation to pass a reasoned order mentioning the allegations made against the petitioners, on which he has taken the cognizance, so the impugned order dated 5.3.2003 is illegal. The learned Sessions Judge also did not consider this manifest error committed by the learned Magistrate and dismissed the revision filed by the petitioners on 9.4.2004. Therefore, the imputgned order dated 9.4.2004 is also illegal. Consequently, the impugned orders dated 5.3.2003 passed by the learned C.J.M., Farrukhabad and the order dated 9.4.2004 passed by the Sessions Judge, Farrukhabad are set aside.

6. In view of the facts and circumstances of the case and the submissions made by the learned counsel for the petitioners the learned C.J.M., Farrukhabad is directed to pass a reasoned order in above mentioned case in accordance with the provisions of law after affording opportunity of being Heard to the parties concerned.

7. With this observation the petition is finally disposed of.