
(2006) 03 AHC CK 0169

In the Allahabad High Court

Case No : Criminal Miscellaneous Application No. 2502 of 2006

Damodar Sharma

APPELLANT

Vs

State of U.P.

RESPONDENT

Date of Decision : 06-03-2006

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 200, 202, 203, 204

Citation : (2006) CriLJ 2264

Hon'ble Judges : Vinod Prasad, J

Bench : Single Bench

Advocate : D.K. Srivastava, for the Appellant; A.G.A., for the Respondent

Final Decision : Allowed

Judgement

Vinod Prasad, J.—Heard the learned Counsel for the applicant and the learned A.G.A.

2. As agreed between the parties, this application is being finally disposed off. The F.I.R. was filed by the applicant against the accused persons. In the said F.I.R., the final report was submitted by the police after investigation. The protest petition of the applicant was registered as complaint and the statement of the applicant and his witness were recorded u/s 200 and 202 Cr.P.C. After recording the said statement, which have been filed as annexure No. 6 to the affidavit appended along with this application the trial court is postponing the summoning of the accused and has issued notices for appearance of the accused persons in this case.

3. The procedure adopted by the trial court is wholly illegal. The trial court, which has registered the protest petition as a complaint and has recorded the statement under Sections 200-202 Cr.P.C. was bound to pass an order either u/s 203 or 204 Cr.P.C. The trial court by not adhering to the procedure prescribed under the Cr.P.C. has committed an illegality.

4. In this view of the matter, this application is finally allowed with the direction

that the trial court will pass a reasoned order u/s 203 or 204 Cr.P.C. within a period of two weeks. from the date of production of certified copy of this order.

5. It is made clear that the appearance of the accused is not required at this stage and he cannot be heard. This application is disposed off.