
(1994) 01 AHC CK 0063
In the Allahabad High Court
Case No : Criminal Revision No. 84 of 1991;

Jai Ram and Ors.

APPELLANT

Vs

State of U.P.& Anr.

RESPONDENT

Date of Decision : 21-01-1994

Acts Referred:

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

Citation : (1994) 01 AHC CK 0063

Hon'ble Judges : R.K.Agrawal, J

Final Decision : Allowed

Judgement

Radhey Krishna Agrawal, J.—This revision has been filed against the order, dated 4291 passed by the Additional Chief Judicial Magistrate, Faizabad, summoning the accused for offence under Section 392 I.P.C. The first information report was lodged under Section 392 I.P.C. against the accused/revisionist. The police submitted final report. The complainant filed protest application and in support of it he had filed affidavit of several witnesses. The learned Magistrate relying on the protest application and affidavits of those witnesses passed the impugned order summoning the accused/revisionist. Hence this revision.

2. I have heard the learned Counsel for the parties. The learned Counsel for the revisionist has contended that the learned Magistrate has committed an error in not following the procedure prescribed under Sections 200 and 202 Cr.P.C. and in straight way summoning the accused/revisionist for the evidence. In support of that contention he has placed reliance on a case reported in 1990 Vol. IX LCr.R 397, Suresh Chanda v. State & Am In this case the learned Single Judge relying on a case reported in 1989 SCC (Cri) 306, Mis India Carat Pvt. Ltd. v. State of Kamataka & Ors., has observed that in case the Magistrate was not satisfied with the final report and has taken into consideration the affidavits filed on behalf of the complainant the Magistrate should have given direction to the complainant to adduce evidence under Sections 200 and 202 Cr.P.C. The aforesaid case of Suresh Chandar has full application in this case.

3. The learned Magistrate, in my opinion, therefore, has committed an error in straight way summoning the accused/revisionist for offence under Section 392 I.P.C.

4. The revision is, therefore, allowed and the impugned order is quashed. The learned Magistrate, if he considers necessary, may adopt the procedure prescribed under Sections 200 and 202 Cr.P.C. and proceed in the matter in the light of the observations made above.

5. The office is directed to send a copy of this order to the learned C.J.M. concerned without delay.

6. A copy of this order be issued to the learned Counsel for the revisionist within a week on payment of usual charges. Revision allowed.