
(2000) 03 AHC CK 0141
In the Allahabad High Court
Case No : Criminal Revision No. 1623 of 1995

Meena Bhandari	Vs	APPELLANT
Om Prakash Bhandari and Others		RESPONDENT

Date of Decision : 13-03-2000

Acts Referred:

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

Citation : (2001) 1 ACR 46

Hon'ble Judges : Krishna Kumar, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Krishna Kumar, J.—This revision has been filed against order dated 20.9.1995, passed by II Ird Additional Sessions Judge, Saharanpur, whereby the order of the learned Magistrate was set aside. The learned J.M. II, Saharanpur, rejected the application of accused persons given by accused for recalling order dated 16.8.1994, whereby the accused were summoned. The accused filed revision against the said order and the learned II Ird Additional Sessions Judge allowed the revision and set aside summoning orders dated 16.6.1994 and 3.12.1994 and rejected the complaint u/s 203, Cr.P.C. Learned Counsel for the revisionist before me contended that when the objections were heard by the learned Magistrate and no substance was found in the objections, the learned Additional Sessions Judge could not have substituted its own finding nor could have appreciated evidence and the learned Additional Sessions Judge committed illegality. Learned Counsel for the opposite party did not appear in this case to argue in spite of opportunity allowed. A perusal of the judgment of the Additional Sessions Judge itself shows that the learned Additional Sessions Judge was appreciating and evaluating evidence to form its own conclusion. At this stage, the learned Magistrate was only to look into the contents of complaint and the evidence recorded under Sections 200 and 202, Cr.P.C. and when the prima facie case was made out, the learned Magistrate could summon the accused persons.

No detailed inquiry or sifting of evidence was required at this stage. Learned Additional Sessions Judge was even trying to hold whether the accused persons were guilty or not which was quite illegal. The Learned Sessions Judge was even going to extent to hold that statement given by the complainant or witnesses was false and not reliable and even this much is held by the learned Sessions Judge that he was not finding the accused guilty for offence u/s 498A. The learned Sessions Judge, therefore, committed gross illegality in substituting its own finding in respect of summoning the accused, and, therefore, the judgment of the learned Sessions Judge is to be set aside. The revision is allowed. The judgment and order dated 20.9.1995, is set aside and the order of the learned Magistrate dated 3.12.1994, is confirmed.