
(1999) 05 AHC CK 0040
In the Allahabad High Court
Case No : Criminal Revision No. 1597 of 1984

Smt. Sheela and Others

APPELLANT

Vs

State of U.P. and Another

RESPONDENT

Date of Decision : 05-05-1999

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 200, 202
Penal Code, 1860 (IPC) — Section 147, 323, 395, 397, 504

Citation : (1999) 3 ACR 2690

Hon'ble Judges : M.C. Jain, J

Bench : Single Bench

Judgement

M.C. Jain, J.—I have heard learned Counsel for the revisionists and learned A.G.A. for opposite party No. 1.

2. On a complaint by the opposite party No. 2, the Judicial Magistrate I Class. Bareilly, summoned the present revisionists u/s 395/397, I.P.C. in Case No. 419 of 1984. Aggrieved, they have preferred this revision.

3. It appears that initially that opposite party No. 2 had lodged an F.I.R. but the police had submitted final report. Opposite Party No. 2 then filed a protest petition which was treated as complaint and after recording the evidence under Sections 200 and 202, Code of Criminal Procedure the present order was passed. As per affidavit filed along with memo or revision, revisionist No. 2 Suresh had filed an F.I.R. on 1.9.1983 at 10.15 p.m. u/s 147/323/504, I.P.C. at Police Station Prem Nagar, against certain persons including the present opposite party No. 2. The police after investigation had submitted charge-sheet. That means to say, cross case based on police report was there against certain persons including opposite party No. 2.

4. It has been argued by the learned Counsel for the applicant revisionists that the learned Magistrate has summoned them u/s 395/397, I.P.C. without application of mind and without there being any ingredient of the offences under Sections 395 and 397, I.P.C.

5. This Court has laid down in the case of Kailash Chaudhari v. State of U.P. XXX 1993 ACC 644 (SC), that a Magistrate is competent to recall the process issuing the order, if he is satisfied that it ought to have not been issued. Under the circumstances, it is directed that in case the revisionists file objections within two months from today before the Magistrate concerned to recall the summoning order he shall consider their prayer and pass a reasoned order. They shall have the liberty to appear before him in person or through counsel. The action shall ultimately follow on the reasoned order to be passed by the Magistrate one way or the other.

The revision is disposed of with these observations.