

**Court No. - 15**

**Case :-** U/S 482/378/407 No. - 683 of 2021

**Applicant :-** Ved Krishna

**Opposite Party :-** State Of U.P. & Another

**Counsel for Applicant :-** Rishad Murtaza

**Counsel for Opposite Party :-** G.A.

**Hon'ble Mrs. Rekha Dikshit,J.**

By means of this petition under sections 482 of the Code of Criminal Procedure, the petitioner has invoked the inherent jurisdiction of this Court for quashing of the impugned summoning order dated 24.6.2019 passed by the Chief Judicial Magistrate, Faizabad in Criminal Case No. 6951 of 2019, State Vs. Ved Krishna and another, arising out of case crime no. 639 of 2018, under sections 494, 498A, 323, 504 and 506 IPC, Police Station Kotwali Ayodhya, District Faizabad, entire proceedings of the said case and impugned charge-sheet dated 30.1.2019 submitted by the investigating officer against the petitioner.

Heard learned counsel for the petitioner and learned Additional Government Advocate representing the State and perused the materials on record.

Learned counsel for the petitioner has confined his prayer to quash the summoning order dated 24.6.2019 passed by the Chief Judicial Magistrate, Faizabad as the same has been passed in mechanical manner without applying his judicial mind on printed proforma by filling up the gaps.

The learned counsel for the petitioner has given much emphasis that if the cognizance has been taken on the printed proforma, the same is not sustainable in the eye of law. In this regard, he has placed reliance on the following decisions of this Court.

**(i) Basaruddin & others Vs. State of U.P. and others** 2011 (1) JIC 335 (All)(LB). The relevant paragraph of the said judgment is quoted below:-

*"From a perusal of the impugned order, it appears that the learned Magistrate on the complaint filed by the complainant has summoned the accused in a mechanical way filling the date in the typed proforma. Learned Magistrate while taking cognizance of the offence on complaint was expected to go through the allegations made in the complaint and to satisfy himself as to which offences were prima facies, being made out against the accused on basis of allegations made in the complaint. It appears that the learned Magistrate did not bother to go through the allegations made in the complaint and ascertain as to what offences were, prima facie, being made out against the accused on the basis of allegations made in the complaint. Apparently, the impugned order passed by the learned Magistrate suffers from non-application of mind while taking cognizance of the offence. The impugned order is not well reasoned order, therefore, the same is liable to be quashed and the petition deserves to be allowed and the matter may be remanded back to the learned Chief Judicial Magistrate, Lakhimpur Kheri with direction to him to go through the allegations made in the complaint and ascertain as to what offences against the accused were prima facie being made out against the accused on the basis of allegations made in the complaint and pass fresh order,*

thereafter, he will proceed according to law."

(ii) **Kavi Ahmad Vs. State of U.P. and another** passed in Criminal Revision No. 3209 of 2010, wherein order taking cognizance of offence by the Magistrate under Section 190(1)(b) on printed proforma without applying his judicial mind towards the material collected by the Investigating Officer has been held illegal.

(iii) **Abdul Rasheed and others Vs. State of U.P. and another** 2010 (3) JIC 761 (All). The relevant observations and findings recorded in the said case are quoted below:-

*"6. Whenever any police report or complaint is filed before the Magistrate, he has to apply his mind to the facts stated in the report or complaint before taking cognizance. If after applying his mind to the facts of the case, the Magistrate comes to the conclusion that there is sufficient material to proceed with the matter, he may take cognizance. In the present case, the summoning order has been passed by affixing a ready made seal of the summoning order on a plain paper and the learned Chief Judicial Magistrate had merely entered the next date fixed in the case in the blank portion of the ready made order. Apparently the learned Magistrate had not applied his mind to the facts of the case before passing the order dated 20.12.2018, therefore, the impugned order cannot be upheld.*

**Vishnu Kumar Gupta and another Vs. State of U.P. and another** (order dated 11th November, 2020 passed by this Court in Application No. 41617 of 2019 (U/s 482 Cr.P.C.).

**Ankit Vs. State of U.P. and others reported JIC 2010 (1) 432.** followed by this Court in the case of Avadhesh Vs. State of U.P. passed in Application No. 13583 of 2010 (U/s 482 Cr.P.C.), decided on 19.4.2019.

**Aquil Ahmad and others Vs. State of U.P. and another** passed in Application No. 4337 of 2015 (U/s 482 Cr.P.C, on 8.9.2015.

Learned counsel for the petitioner contends that such a proforma order could not have been passed as the same has to necessary involve application of mind by the Magistrate concerned.

Learned AGA did not dispute the correctness of the submissions of the learned counsel for the petitioner.

Taking into consideration the aforesaid, this petition is allowed and the impugned summoning order dated 24.6.2019 passed by the Chief Judicial Magistrate, Faizabad in Criminal Case No. 6951 of 2019, State Vs. Ved Krishna and another, arising out of case crime no. 639 of 2018, under sections 494, 498A, 323, 504 and 506 IPC, Police Station Kotwali Ayodhya, District Faizabad is set aside. The learned Magistrate concerned is directed to pass a fresh order in accordance with law within a period of one month from the date of production of a certified copy of this order before him.

**Order Date :- 11.2.2021**

GSY