Court No. - 27
Case :- APPLICATION U/S 482 No. - 3047 of 2017

Applicant :- Muralidhar Tiwari And Ors.
Opposite Party :- The State Of U.P. And Anr.
Counsel for Applicant :- Ayodhya Prasad Mishra
Counsel for Opposite Party :- Govt. Advocate

Hon'ble Shamim Ahmed,J.

1. Heard Shri Ayodhya Prasad Mishra, learned counsel for the applicants as well as Shri Rajeev Kumar Verma, learned A.G.A. for the State and perused the record.

2. The instant application under Section 482 Cr.P.C. has been filed by the applicants with a prayer to set aside the order dated 20.11.2015/03.01.2017 passed in Case No.568/2015 relating to N.C.R. No.236/2015 under Section 193/195 I.P.C. pending in the court of learned Additional Chief Judicial Magistrate 1st, District-Gonda and also to quash the N.C.R. registered against the applicants as well as cognizance order passed by learned Additional Chief Judicial Magistrate 1st, District-Gonda and during the pendency of the present application the orders dated 20.11.2015/03.01.2017 may kindly be kept in abeyance, in the interest of justice.

3. Learned Counsel for the applicants submits that the facts of the present case are that the applicants have lodged criminal cases at police station concerned and supported them through their statements in all cases along with independent witnesses under section 161 Cr.P.C. before investigating officer and they also adduced documentary material to establish their case before investigating officer including medical reports in respect of causing injuring to Baijnath Shukla and Shyam Narayan Tiwari caused by opposite party No.2 as well as some other persons but since the investigating officer connived with accused persons in all cases and reason is best known to him in spite of proper, fair and just investigation filed final report, that's why the initial version of the all criminal cases filed by applicants were found truthful supported with other material provided to the investigating officer, the learned magistrate rejected the final report submitted by investigating officer in all cases and desired to summon the applicants to submit their reply and thereafter without going through with the material in two cases the learned Magistrate passed an order for further investigation in the cases, therefore at this stage even for a

moment if the allegation are accepted of false allegations in the F.I.R. as alleged by opposite party No.2 then the same cannot be said to be true fact for commission of any offence under section 193/195 I.P.C. because the allegation of the applicants made in their F.I.R.s have been given truthfulness by judicial order as passed by the learned Magistrate concern refusing to accept the final report submitted by investigating officer, therefore, no question for false allegations in any F.I.R. by any persons (applicants) is made out, therefore, the prosecution under section 193/195 I.P.C. was not to be admitted to be continued by police officials as well as also by judicial magistrate concerned in the present case hence being serious illegality for passing order under section 155 (2) Cr.P.C. by learned Magistrate concerned is nothing but tried to initiate illegal criminal prosecution by invoking jurisdiction under section 155(2) Cr.P.C. against the applicants otherwise there was no such stage to pass any order on such application by the Magistrate concerned except to reject even the N.C.R.

4. Learned Counsel for the applicants further submits that it is significant to mention here that an F.I.R. was registered on 09.08.2009 by Muralidhar Tiwari (applicant no. 1) vide F.I.R. no. 191/2009 under section 324/34 1.P.C. and section 27 of Arms Act against the opposite party No.2- Venktesh Datt Ram Pandey, at Police Station- Sadar Bazar, District- North Delhi in which after filing final report under section 169 Cr.P.C. the protest application filed by applicant No. 1 (Muralidhar Tiwari) in the court of learned Metro Politan Magistrate, Tees Hajari Court, District- North Delhi is pending.

5. Learned Counsel for the applicants further submits that on 30.01.2012 an F.I.R. was registered by Shyam Narain Tiwari (applicant no. 2) at Police Station Kotwali Dehat, District- Gonda vide crime no. 122/2012 under section 307/504/506 I.P.C. in which under the pressure of opposite party No.2, the police filed final report and after filing protest application the learned Additional Chief Judicial Magistrate Ist, district- Gonda has passed an order for further investigation in the matter which is also pending.

6. Learned Counsel for the applicants further submits that on 15.07.2015 an F.I.R. has been lodged by applicant No.3 (Baijnath Shukla) against named accused persons in the F.I.R. which was registered vide crime no. 220/2015 under section 307 1.P.C. at Police Station- Kotwali Dehat, District- Gonda. The opposite party No.2 has no concern from this F.I.R. because he has not been named by applicant No.3, but being influential person he was supporting the named accused person in this F.I.R. and on his pressure the police filed final report

under section 169 Cr.P.C. in which protest application was filed before learned A.C.J.M. Ist, district- Gonda by applicant No.3 in which the learned Magistrate has been pleased to pass an order for further investigation in the case and investigation is still going on.

7. Learned Counsel for the applicants further submits that the order passed after filing of final report by learned Magistrate concerned relating crime nos. 220/2015 and 122/2012 for further investigation of the case and final report submitted by investigating officer is bad in the eyes of law.

8. Learned Counsel for the applicants further submits that admittedly in all cases due process of law has been adopted without filing any false evidence before court of law in any case. The procedure provided for need full remedy under Cr.P.C. as well as through judicial pronouncement by Hon'ble Apex court of India as well as by this Court has been adopted by applicants in all cases. No question of filing false evidence arises at this stage.

9. Learned Counsel for the applicants further submits that there are no documents purporting to be forged or false filed by applicants in any judicial proceedings. The protest applications have been filed in support of the allegations made by persons concerned of all cases on which investigation started but investigating officer either in connivance of opposite party No.2 or without fair, proper and just investigation under pressure of accused persons filed final report before court concerned on which, the court concerned being not satisfied with final report submitted by investigating officer and after going through the allegations made in the F.I.R. as well as material collected by him during investigation refused to accept the final report and according to procedure established by law invited to the applicants to submit their reply against final report and on that the applicants filed protest applications in all cases before the court concerned. The learned Magistrate going through with material available on record passed an order for further investigation in two cases relating to crime no. 122/2012 and 220/2015 which are still going on in District Gonda. So far as case relating District- North Delhi is concerned the hearing is going on protest application filed by applicant No.1- Muralidhar Tiwari before court concerned.

10. Learned Counsel for the applicants further submits that on 02.10.2015 an application at Police staion Kotwali Dehat, district-Gonda was submitted by opposite party No.2 (Venktesh Datt Ram Pandey) stating therein that because of village Pradhan election enmity, the applicants-Muralidhar tiwari,

Shaym Narayan tiwari and Baijnath Shukla resident of same village- Banghusara Khas, have registered several false cases by concocting false story at Police Station- Kotwali Dehat as well as other Police Station against opposite party No.2 as the family members of the opposite party No.2 as well as he himself is very aggrieved and also faced mental and physical torture. The accused persons are lodging F.I.R. against him and his other family members and also their supporters out of which all cases were found false as the investigating officer filed final report in all cases. He further submits that the opposite party No.2 also filed list of all allegedly false cases registered against him and others. It is further alleged that because of cases based on false and concocted facts, the final report was submitted suggesting that under conspiracy by way of false evidence they are torturing the opposite party No.2. It is further alleged that in all cases in which false evidence were prepared for awarding conviction to the opposite party No.2 also have been narrated in the list of the cases. In the aforesaid circumstances it was requested that the criminal case be registered against the applicants-Muralidhar, Baijnath and Shyam Narayan. The application was submitted on 02.10.2015 and case was registered as N.C.R. no. 0236/2015 under section 155 Cr.P.C. registering a case under section 193/195 L.P.C. by the police of police station- Kotwali Dehat. District- Gonda against the petitioners.

11. Learned Counsel for the applicants further submits that it is well settled preposition of law as well as according to the provision of Indian Penal code the provision of section 193 and 195 1.P.C. can be invoked only if false evidence has been filed by any person against any person intentionally in judicial proceeding as evidence then only prosecution under section 193 and 195 I.P.C. can be invoked against that person. Therefore according to the mandate and the statute of I.P.C. the allegation made in the application which was later registered as N.C.R. was not required to invoke jurisdiction of section 193/195 1.P.C. for prosecuting any person, thus, the same was not maintainable because there is no case in which any judicial proceeding was started and any false evidence was adduced by the persons concerned but the police of concerned police station under the pressure of opposite party No.2 being an influential person, the police has taken the application filed by opposite party No.2 and knowingly and intentionally and registered a N.C.R. against the applicants though this is no stage as per F.I.R. itself for registering a case under section 193 and 195 LP.C. registered a criminal case as N.C.R. under section 193/195 LP.C.

12. Learned Counsel for the applicants further submits that an

application under section 155(2) Cr.P.C. was filed by opposite party No.2 on 03.10.2015 in the court of learned Additional Chief Judicial Magistrate Ist, District- Gonda and the case was registered before court as case no. 568/2015 and the learned Magistrate without considering legal question regarding the stage of maintainability of F.I.R. /N.C.R. passed an order on 20.11.2015 with the direction for investigation of the case to the investigating officer.

13. Learned Counsel for the applicants further submits that learned Magistrate also given an opinion in his order dated 20.11.2015 and admitted this fact that "the false evidence though has been alleged given at police station but not before any court". Meaning thereby that learned Magistrate was very well aware about the maintainability of the application for registration of the F.I.R. as per allegation that the same was not maintainable even then he accepted the request of the opposite party No.2 and passed an order for investigation of the case and due to this reason the police investigated the matter and filed charge sheet against the applicants under section 193/195 I.P.C. only.

14. Learned Counsel for the applicants further submits that after filing of charge sheet by investigating officer the learned court concern taken cognizance and summoned the applicants for facing trial proceeding and being aggrieved by filing of charge sheet and cognizance order under section 193/195 L.P.C. the applicants approached to this Ccourt and filed a petition under section 482 Cr.P.C. vide Criminal Miscellaneous Case no. 2496/2017 wherein they challenged the charge sheet as well as cognizance order and, the said petition was decided by passing final order on 20.04.2017.

15. Learned Counsel for the applicants further submits that the question involved in the present application is for protection of fundamental rights enshrined under article 21 of the Constitution of India which provides that the personal liberty to person shall not be disturbed except procedure established by law. In the present case for launching criminal prosecution case under Section 193/195 I.P.C. the basic requirement is that there must be judicial proceeding pending before any court of law and intentionally false evidence has been filed in judicial proceedings by a person's but in the present case no such stage has arisen as admitted by the learned magistrate in his own order dated 20.11.2015 accepting that no false evidence has been given in any judicial proceeding by the applicants. Merely submission of any application does not amount that the investigation is mandatory in each and every case as per settled preposition of law.

16. Learned Counsel for the applicants further submits that the allegations made in the N.C.R. by opposite party No.2 are vague, frivolous, unwarranted even without the applicability of the stage of section 193/195 I.P.C. hence the same are liable to be set aside and all proceedings are also liable to be terminated based on N.C.R. no. 236/2015 as well as subsequently through the order dated 20.11.2015 passed by learned magistrate concern.

17. Learned counsel for the applicants further submits that by the order dated 20.11.2015/03.01.2017passed in Case No.568/2015 relating to N.C.R. No.236/2015 under Section 193/195 I.P.C. pending in the court of learned Additional Chief Judicial Magistrate 1st, District-Gonda whereby cognizance has been taken by the learned Magistrate on printed proforma without assigning any reason is abuse of process of law and the same was without application of mind and was passed in a routine manner.

18. Learned counsel for the applicants further submits that after submission of charge sheet and cognizance order on printed proforma, the applicants have been summoned mechanically by order dated 03.01.2017 and the trial court while summoning the applicants has materially erred and did not follow the dictum of law as propounded by the Hon'ble Apex Court in various cases that summoning in criminal case is a serious matter and the trial court without dwelling into material and visualizing the case on the touch stone of probability should not summon accused persons to face criminal trial. He further submits that the trial court has not taken into consideration the material placed before the trial court along with charge sheet and, therefore, the trial court has materially erred in summoning the applicants. The trial court has summoned the applicants through a printed order, which is wholly illegal.

19. It is vehemently urged by learned counsel for the applicants that the impugned cognizance/summoning order dated 20.11.2015/03.01.2017 are not sustainable in the eyes of law, as the same have been passed in mechanical manner without applying the judicial mind, because on the face of record itself it is apparent that impugned cognizance/summoning order dated 20.11.2015/03.01.2017 has been passed by the Magistrate concerned on printed proforma by filling up the blanks, therefore the same are liable to be quashed by this Court.

20. Learned counsel for the applicants has given much emphasis that if the cognizance/summon has been taken on the printed proforma, the same is not sustainable.

21. Per contra, learned A.G.A. for the State submits that considering the material evidences and allegations against the applicants on record, as on date, as per prosecution case, the cognizable offence against the applicants is made out, therefore, application is liable to be dismissed but has not denied that the leaned Magistrate has taken cognizance on the printed proforma. Accordingly, this case is being finally decided at this stage without issuing notice to opposite party no.2 and without calling for a counter affidavit.

22. I have heard the learned counsel for the parties and perused the record.

23. The main issue for consideration before this Court is that whether the learned Magistrate may summon the accused person on a printed proforma without assigning any reason and take cognizance on police report filed under Sections 173 of Cr.P.C. In this regard, it is relevant to mention here that a Court can take cognizance of an offence only when condition requisite for initiation of proceedings before it as set out in Chapter XIV of the Code are fulfilled. Otherwise, the Court does not obtain jurisdiction to try the offences under section 190 (1) of the Cr.P.C. provided that "subject to the provisions of this Chapter, any Magistrate of the first class, and any Magistrate of the second class specially empowered in this behalf under sub-section (2), may take cognizance of any offence-

(a) upon receiving a complaint of facts which constitute such offence,

(b) upon a police report of such facts;

(c) upon information received from any person other than a police officer, or upon his own knowledge, that such offence has been committed.

(2) The Chief Judicial Magistrate may empower any Magistrate of the second class to take cognizance under sub-section (1) of such offences as are within his competence to inquire into or try."

24. At this juncture, it is fruitful to have a look so far as the law pertaining to summoning of the accused persons, by taking cognizance on a police report filed under section 173 of the Cr.P.C., is concerned and the perusal of the case law mentioned herein below would clearly reveal that cognizance of an offence on complaint is taken for the purpose of issuing process to the accused. Since, it is a process of taking judicial notice of certain facts which constitute an offence, there has to be application of

mind as to whether the material collected by the Investigating Officer results in sufficient grounds to proceed further and would constitute violation of law so as to call a person to appear before the criminal court to face trial. This discretion puts a responsibility on the magistrate concerned to act judiciously keeping in view the facts of the particular case as well as the law on the subject and the orders of Magistrate does not suffers from non-application of judicial mind while taking cognizance of the offence.

25. Fair and proper investigation is the primary duty of the Investigating Officer. No investigating agency can take unduly long time in completing investigation. There is implicit right under Article 21 for speedy trial which in turn encompasses speedy investigation, inquiry, appeal, revision and retrial. There is clear need for time line in completing investigation for having in-house oversight mechanism wherein accountability for adhering to lay down timeline, can be fixed at different levels in the hierarchy, vide ***Dilawar vs. State of Haryana, (2018) 16 SCC 521, Menka Gandhi vs. Union of India, AIR 1978 SC 597, Hussainara Khatoon (I) vs. State of Bihar, (1980)1 SCC 81, Abdul Rehman Antulay vs. R.S. Nayak, (1992) 1 SCC 225 and P. Ramchandra Rao vs. State of Karnatka, (2002) 4 SCC 578.***

26. For the purposes of investigation, offences are divided into two categories "cognizable" and "non-cognizable". When information of a cognizable offence is received or such commission is suspected, the proper police officer has the authority to enter in the investigation of the same but where the information relates to a non-cognizable offence, he shall not investigate it without the order of the competent Magistrate. Investigation includes all the proceedings under the Cr.P.C. for the collection of evidence conducted by a police officer or by any person other than a Magistrate (who is authorised by a Magistrate in his behalf). Investigation consists of steps, namely (i) proceeding to spot, (ii) ascertainment of the facts and circumstances of the case, (iii) discovery and arrest of the suspected offender, (iv) collection of evidence relating to the commission of the offence and (v) formation of opinion as to whether on the material collected therein to place the accused before a Magistrate for trial and if so to take necessary steps for the same by filing a charge sheet under Section 173, Cr.P.C., vide ***H.N. Rishbud vs. State of Delhi, AIR 1955 SC 196.*** Thereafter, the learned Magistrate has to take cognizance after application of judicial mind and by reasoned order and not in mechanical manner.

27. In the case of ***Bhushan Kumar and Anr. v. State (NCT of***

Delhi) and Anr., AIR 2012 SC 1747, the Hon'ble Apex Court was pleased to observe that section 204 of the Code does not mandate the Magistrate to explicitly state the reasons for issuance of summons. It clearly states that if in the opinion of a Magistrate taking cognizance of an offence, there is sufficient ground for proceedIn the case of ***Basaruddin & others Vs. State of U.P. and others, 2011 (1) JIC 335 (All)(LB)***, this Court was pleased to observed as under:-

"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."

28. In the case of ***Bhushan Kumar and Anr. v. State (NCT of Delhi) and Anr., AIR 2012 SC 1747***, the Hon'ble Apex Court was pleased to observe that section 204 of the Code does not mandate the Magistrate to explicitly state the reasons for issuance of summons. It clearly states that if in the opinion of a Magistrate taking cognizance of an offence, there is sufficient ground for proceeding, then the summons may be issued. This section mandates the Magistrate to form an opinion as to whether there exists a sufficient ground for summons to be issued but it is nowhere mentioned in the section that the explicit narration of the same is mandatory, meaning thereby that it is not a pre-requisite for deciding the validity of the summons issued.

29. In the case of ***Sunil Bharti Mittal v. Central Bureau of Investigation, AIR 2015 SC 923***, the Hon,ble Apex Court was pleased to observe in paragraph no.47 of the judgment as under:

"47. However, the words "sufficient grounds for proceeding" appearing in the Section are of immense importance. It is these

words which amply suggest that an opinion is to be formed only after due application of mind that there is sufficient basis for proceeding against the said accused and formation of such an opinion is to be stated in the order itself."

30. In the case of ***Darshan Singh Ram Kishan v. State of Maharashtra , (1971) 2 SCC 654***, the Court was pleased to observe that the process of taking cognizance does not involve any formal action, but it occurs as soon as the Magistrate applies his mind to the allegations and, thereafter, takes judicial notice of the offence. As provided by Section 190 of the Code of Criminal Procedure, a Magistrate may take cognizance of an offence either, (a) upon receiving a complaint, or (b) upon a police report, or (c) upon information received from a person other than a police officer or even upon his own information or suspicion that such an offence has been committed. As has often been held, taking cognizance does not involve any formal action or indeed action of any kind but occurs as soon as a Magistrate applies his mind to the suspected commission of an offence. Cognizance, therefore, takes place at a point when a Magistrate first takes judicial notice of an offence. This is the position whether the Magistrate takes cognizance of an offence on a complaint, or on a police report, or upon information of a person other than a police officer. Therefore, when a Magistrate takes cognizance of an offence upon a police report, prima facie he does so of the offence or offences disclosed in such report."

31. In the case of ***Ankit Vs. State of U.P. And another passed in Application U/S 482 No.19647 of 2009*** decided on 15.10.2009, this Court was pleased to observe in paragraph No.8 of the judgment as under:-

*"8. In the beginning, the name of the court, case number, state vs. ..... under section ..... P.S. ..... District ..... case crime No. ..... /2009 also have been printed and blanks have been filled up by mentioning the case number, name of the accused, section, P.S. District etc. by some employee. Below afore cited printed matter, the following sentence has been mentioned in handwriting "*अभियुक्त अंकित की गिरफ्तारी मा*0* उच्च न्यायायल द्वारा *Crl. Writ No. 19559/08* अंकित बनाम राज्य में पारित आदेश दिनांक *5.11.08* द्वारा आरोप पत्र प्राप्त होने तक स्थगित थी।*"*

Below aforesaid sentence, the seal of the court containing name of Sri Talevar Singh, the then Judicial Magistrate-III, has been affixed and the learned magistrate has put his short signature (initial) over his name. The manner in which the impugned order has been prepared shows that the learned magistrate did not at all apply his judicial mind at the time of passing this order and after the blanks were filled up by some employee of the court, he has put his initial on the seal of the court. This method of passing judicial order is wholly illegal. If for the shake of argument, it is assumed that the blanks on the printed proforma were filled up in the handwriting of

learned magistrate, even then the impugned order would be illegal and invalid, because order of taking cognizance of any other judicial order cannot be passed by filling up blanks on the printed proforma. Although as held by this Court in the case of Megh Nath Guptas & Anr V State of U.P. And Anr, 2008 (62) ACC 826, in which reference has been made to the cases of Deputy Chief Controller Import and Export Vs Roshan Lal Agarwal, 2003 (4) ACC 686 (SC), UP Pollution Control Board Vs Mohan Meakins, 2000 (2) JIC 159 (SC): AIR 2000 SC 1456 and Kanti Bhadra Vs State of West Bengal, 2000 (1) JIC 751 (SC): 2000 (40) ACC 441 (SC), the Magistrate is not required to pass detailed reasoned order at the time of taking cognizance on the charge sheet, but it does not mean that order of taking cognizance can be passed by filling up the blanks on printed proforma. At the time of passing any judicial order including the order taking cognizance on the charge sheet, the Court is required to apply judicial mind and even the order of taking cognizance cannot be passed in mechanical manner. Therefore, the impugned order is liable to be quashed and the matter has to be sent back to the Court below for passing fresh order on the charge sheet after applying judicial mind."

32. In the case of ***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.

33. In the case of ***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.

7. Judicial orders cannot be allowed to be passed in a mechanical manner either by filling in blank on a printed proforma or by affixing a ready made seal etc. of the order on a plain paper. Such tendency must be deprecated and cannot be allowed to perpetuate. This reflects not only lack of application of mind to the facts of the case but is also against the settled judicial norms. Therefore, this practice must be stopped forthwith."

34. In view of the above, this Court finds and observes that the

conduct of the judicial officers concerned in passing orders on printed proforma by filling up the blanks without application of judicial mind is objectionable and deserves to be deprecated. The summoning of an accused in a criminal case is a serious matter and the order must reflect that Magistrate had applied his mind to the facts as well as law applicable thereto, whereas the impugned summoning order was passed in mechanical manner without application of judicial mind and without satisfying himself as to which offence were prima-facie being made out against the applicants on the basis of the allegations made by the complainant. the impugned cognizance order passed by the learned Magistrate is against the settled judicial norms.

35. In light of the judgments referred to above, it is explicitly clear that the order dated 20.11.2015/03.01.2017 passed in Case No.568/2015 relating to N.C.R. No.236/2015 under Section 193/195 I.P.C. pending in the court of learned Additional Chief Judicial Magistrate 1st, District-Gonda are cryptic and do not stand the test of the law laid down by the Hon'ble Apex Court. Consequently, the cognizance/summoning order dated 20.11.2015/03.01.2017 cannot be legally sustained, as the Magistrate concerned failed to exercise the jurisdiction vested in him resulting in miscarriage of justice.

36. Accordingly, the present Application U/S 482 Cr.P.C succeeds and is ***allowed***. The impugned cognizance/summoning order dated 20.11.2015/03.01.2017 passed in Case No.568/2015 relating to N.C.R. No.236/2015 under Section 193/195 I.P.C. pending in the court of learned Additional Chief Judicial Magistrate 1st, District-Gonda are hereby ***quashed***.

37. The matter is remitted back to Additional Chief Judicial Magistrate-Ist, District-Gonda directing him to decide afresh the issue for taking cognizance and summoning the applicants and pass appropriate orders in accordance with law keeping in view the observations made by this Court as well as the direction contained in the judgments referred to above within a period of two months from the date of production of a copy of this order.

Order Date :- 13.5.2024
Piyush/-