

**Court No. - 74**

**Case :-** APPLICATION U/S 482 No. - 16627 of 2024

**Applicant :-** Parul Agarwal

**Opposite Party :-** State of U.P. and Another

**Counsel for Applicant :-** Gunjan Jadwani,Rahul Agarwal

**Counsel for Opposite Party :-** G.A.,Sudhir Mehrotra,Vipul Pandey

**Connected with**

**Case :-** APPLICATION U/S 482 No. - 16968 of 2024

**Applicant :-** Parul Agarwal

**Opposite Party :-** State of U.P. and Another

**Counsel for Applicant :-** Gunjan Jadwani,Rahul Agarwal

**Counsel for Opposite Party :-** G.A.,Vipul Pandey

**Hon'ble Saurabh Shyam Shamsbery,J.**

1. Heard Sri Rahul Agarwal, Advocate assisted by Ms. Gunjan Jadwani, learned counsel for applicant, Sri Vipul Pandey, Advocate for Opposite Party No. 2 and Sri Sudhir Mehrotra, Advocate as a Special Counsel, High Court.

2. Above referred both cases are arising out of proceedings initiated at the instance of two complainants (husband and wife) against present applicant with regard to an alleged defamation by a news published in multiple newspapers about alleged fraud committed by complainants.

3. Learned counsel for applicant has argued at length, however, at this stage the Court takes note that in both cases Magistrate concerned has passed self contradictory orders on same date. By one order passed under Section 203 Cr.P.C. complaint was dismissed and by another order passed under Section 204 Cr.P.C.

applicant is summoned to face trial for offence under Section 500 IPC.

4. Learned counsel for applicant has referred said orders in both applications and submits that the order whereby complaint was dismissed was uploaded on concerned website though it was unsigned whereas the order whereby applicant was summoned under Section 500 IPC was a signed order.

5. This Court vide order dated 20.05.2024 has sought explanation from concerned Magistrate, who has filed an affidavit through Sri Sudhir Mehrotra, Advocate, which is on record. The Magistrate concerned has tendered his unconditional apology and explanation is given that staff of his Court has unintentionally uploaded unsigned and draft order without his consent.

6. I have considered the above submissions. Since there are two contrary orders as well as applicant is summoned in both cases by an unreasoned order, therefore, in the light of judgements passed by Supreme Court in Lalankumar Singh and others vs. State of Maharashtra, 2022 SCC OnLine SC 1383 and Delhi Race Club (1940) Ltd. and Ors. Vs. State of U.P. and Anr., 2024 SCC OnLine SC 2248, both orders impugned in these applications are liable to be set aside.

7. In view of above, impugned summoning orders dated 13.02.2024 passed by Chief Judicial Magistrate, Ghaziabad in Complaint Case No. 5339 of 2023 (Ankur Garg vs. Smt. Parul Agrawal) and 5338 of 2023 (Malika Garg vs. Smt. Parul Agrawal), under Section 500 IPC, Police Station Kavi Nagar, District Ghaziabad, are hereby set aside. It is also observed that unsigned orders shall not be considered to be part of proceedings.

8. Matter is remitted back to Trial Court concerned to pass a fresh

order in accordance with law after taking note of above referred judgments and after hearing complainant only expeditiously, preferably within a period of three months from today, if there is no legal impediment. The Court also takes note of FIR lodged against the complainant and its outcome as well as Explanation to Section 500 IPC and that no allegation is made against the publisher of concerned newspaper. (See, Kishore Bal Krishna Nand vs. State of Maharashtra and another (2023) INSC 675)

9. So far as conduct of Magistrate is concerned, the Court finds that he was not careful, therefore, an unsigned contrary order was uploaded. He has also not initiated any inquiry against staff concerned. The Court is informed that he is a young Magistrate, therefore, keeping in view of his long carrier, I am not passing any adverse order. However, District Judge concerned is directed to initiate an inquiry, under which circumstances staff of concerned Court has uploaded two unsigned draft orders on website. A copy of report be placed on record of this Court.

10. A copy of this order be sent to District Judge concerned as well as Magistrate concerned.

11. With aforesaid observations/ directions, this application is disposed of.

12. Registrar (Compliance) to take steps.

**Order Date :- 23.9.2024**

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