

Court No. - 37

Case :- WRIT - C No. - 42221 of 2019

Petitioner :- Sudhir Malik

Respondent :- State Of U.P. And 3 Others

Counsel for Petitioner :- Ashish Kumar Singh

Counsel for Respondent :- C.S.C.

Hon'ble Abhinava Upadhyya,J.

Hon'ble Ravi Nath Tilhari,J.

Heard Sri Ashish Kumar Singh, learned counsel for the petitioner and the learned Standing Counsel for the State respondents.

By means of this writ petition the petitioner has challenged the order dated 19.11.2019 passed by the Additional City Magistrate-II, Ghaziabad, by which the petitioner has been asked to appear before him with the regard to some fraud committed by the petitioner and caste related abuses being given by the him to the complainant, as per complaint of respondent no. 4.

Learned Standing Counsel was required to seek instruction as to in exercise of which power the Addl. City Magistrate can summon an individual without there being any first information report or any legal proceedings being drawn against him.

Learned Standing Counsel has not been able to provide any provision under which such power can be exercised by the Addl. City Magistrate. Learned Standing Counsel submitted that a letter was sent but no response has been given.

That being the case and without there being any legal provision, the order passed by the Addl. City Magistrate, Ghaziabad dated 19.11.2019 cannot be sustained and is hereby quashed.

However, authorities are at liberty to proceed against the petitioner in accordance with law.

With the aforesaid observation, the writ petition is allowed.

Order Date :- 6.1.2020

Pkb/

(Ravi Nath Tilhari, J.) (Abhinava Upadhyya, J.)