

(2016) 07 AHC CK 0218
In the Allahabad High Court
Case No : Misc. Bench No. 16491 of 2016

Anil Kumar Srivastava

APPELLANT

Vs

State of Uttar Pradesh

RESPONDENT

Date of Decision : 19-07-2016

Acts Referred:

Penal Code, 1860 (IPC) — Section 419, 420, 467, 468, 471

Citation : (2016) 9 ADJ 219

Hon'ble Judges : Ajai Lamba and Ravindra Nath Mishra-II, JJ.

Bench : Division Bench

Advocate : Anand Pal Singh, Advocate, for the Petitioner; Govt. Advocate, for the Respondent

Final Decision : Dismissed

Judgement

1. This petition seeks issuance of a writ in the nature of Certiorari quashing first information report bearing Case Crime No.145 of 2016, under Sections 419, 420, 467, 468 and 471 Indian Penal Code, Police Station Khondare, District Gonda.
2. We have read the impugned first information report in extenso.
3. Allegation against the petitioner is that the petitioner projected himself to be in Vigilance Department of the Railways and offered to get sons of respondent no.4/complainant employed in Railways. For the said purpose, substantial amount of money has been taken by the petitioner from respondent no. 4.
4. The crime was registered on 25th May, 2016. The investigation is at inceptive stage. Evidence cannot be taken by way of affidavits and counter affidavits to record a finding that no such incident took place.
5. The Hon'ble Supreme Court of India in State of Haryana and others v. Ch. Bhajan Lal and others reported in AIR 1992 SC 604, has summarised the conditions, under which the court may consider quashing of proceedings, in the following terms:-

"108. In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers under Section 482 of the Code which we have extracted and reproduced above, we give the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such powers should be exercised.

1. Where the allegations made in the First Information Report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.

2. Where the allegations in the First Information Report and other materials, if any, accompanying the F.I.R. do not disclose a cognisable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.

3. Where the un-controverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.

4. Where, the allegations in the F.I.R. do not constitute a cognisable offence but constitute only a non-cognisable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.

5. Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

6. Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.

7. Where a criminal proceeding is manifestly attended with malafide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge."

6. We do not find that the case of the petitioner(s) falls within any of the conditions provided by Hon"ble Supreme Court of India in the above extracted portion of the judgment.

7. Under the circumstances, we find no ground to interfere in extraordinary writ

jurisdiction.

8. The petition is dismissed.