
(2006) 11 AHC CK 0151

In the Allahabad High Court

Case No : Criminal Miscellaneous Application No. 13846 of 2006

Arun Kumar Rathi and Others

APPELLANT

Vs

State of U.P.and Another

RESPONDENT

Date of Decision : 13-11-2006

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482
Penal Code, 1860 (IPC) — Section 420, 467, 468, 471

Citation : (2006) 11 AHC CK 0151

Hon'ble Judges : Barkat Ali Zaidi, J

Final Decision : Dismissed

Judgement

Barkat Ali Zaidi, J.—Petitioners are respectively Directors, VicePresident and Accountant of a Company known as "M/s. Rathi Ispat Ltd." located in Ghaziabad. They deal in stainless steel ware. One another firm by the name of M/s. Agsons Metal (Pvt.) Ltd. Sadar Bazar, Delhi are their consignment agent, its Director being Subhash Chandra Gulati. The company made some consignment sales and in turn M/s. Agsons sent 6 forms in Form F under the Sales Tax Act of Delhi to the petitioner Company and the petitioner submitted them before their Assessing authority at Ghaziabad, which granted them the benefit of consignment sale on their basis, entitling them to a reduction of Rs. 60 lacs in Trade Tax payment.

2. Trade Tax authorities discovered that the form submitted by the petitioner firm had not been issued to M/s. Agsons Delhi firm by Sales Tax Authorities, Delhi and initiated criminal proceedings against both the firms. Chargesheet (CrI. Case No. 2776 of 2006) has been submitted against the present three petitioners and one coaccused Subhash Chandra Gulati under Sections 420, 467, 468 and 471 I.P.C., which is presently pending in the Court of Chief Judicial Magistrate, Ghaziabad.

3. That is how the petitioners have come in Section 482 Cr.P.C.

4. I have heard Sri Gopal Chaturvedi, learned senior advocate, assisted by Sri Ramesh Sinha, Advocate for the petitioners and Sri Patanjai Mishra, learned A.G.A. for the State.

5. The petitioners contend that no criminal liability can be fastened on them, because there was no criminal intent on their part, and they submitted the form supplied to them by their consignment agent M/s. Agsons firm of Delhi. It was found during investigation that the forms were meant for one M/s. Panna Lal Vinod Kumar, a neighbouring firm of M/s. Agsons Delhi and which were collected by M/s. Agsons at Delhi and were sent by its Director Subhash Chandra Gulati to petitioners. These facts have been revealed during investigation.
6. On the basis of these facts and circumstances of the case, the petitioners say that they are not liable and invoke intercession of this Court with the add of provisions of Section 482 Cr.P.C. for exonerating them and terminating the criminal proceedings against them.
7. Their appears quite sum substance, in, what the petitioners say, but the adjudicatory principles and practice requires that the matter should first be considered by the trial Court. No application for discharge under the relevant provisions was given by the petitioners before the trial Magistrate.
8. They have skipped the lower Courts and come straight to the High Court for relief. The established procedure is that they should have first addressed the grievance before the trial Magistrate and it is only thereafter that they could be deemed and entitled to come to this Court.
9. The petitioners may, therefore, present and application in this regard before the Trial Magistrate and they should not be taken into custody till that application has been disposed of, and in case of an adverse verdict, they may seek redress from the superior Courts.
10. With these observations, this petition is, for the present, dismissed.