
(2009) 07 AHC CK 0217

In the Allahabad High Court

Case No : Criminal Miscellaneous Case No. 2573 of 2009

Awadhesh Pandit & Anr.

APPELLANT

Vs

State of U.P. & Ors.

RESPONDENT

Date of Decision : 29-07-2009

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482

Citation : (2009) 07 AHC CK 0217

Hon'ble Judges : Suresh Chandra Chaurasia, J

Final Decision : Dismissed

Judgement

S.C. Chaurasia, J.—Supplementary affidavit filed on behalf of the petitioners be taken on record.

2. Heard the learned Counsel for the petitioners, the learned A.G.A. and perused the record.

3. This petition under Section 482, Cr.P.C. has been filed on behalf of the petitioners with the prayer that the impugned order dated 2962009 passed by the Special Judicial Magistrate, Pollution (C.B.I.), Lucknow in Case No. 796 of 2009, State v. Rajeshwar Pandit & Ors., and the chargesheet relating to Case Crime No. 160 of 1999 under Sections 452,323,352, 504, I.P.C. and 3 (1) (x) S.C. and S.T. Act, PS. Mai, District Lucknow, may be quashed.

4. The learned Counsel for the petitioners has submitted that no case under Section 3(1) (x) of S.C. and S.T. Act has been made out against the accused and hence, the chargesheet and the impugned order dated 2962009 deserve to be set aside.

5. From the perusal of the record, it transpires that on the basis of the F.I.R. lodged against the petitioners, the investigation was conducted and the evidence was collected during investigation. After completion of the investigation, the chargesheet was filed against the petitioner and one another person, namely, Rajeshwar Pandit, under Sections 452,323,352,504, I.P.C. and 3(1) (x) of S.C.

and S.T. Act. The Competent Court, after considering the record, has taken cognizance of the offence and ordered to summon the accused. Since the accused did not attend the Court, the nonbailable warrants were ordered to be issued against them vide order dated 28/2962009.

6. The matter relates to the year 1999. After completion of the investigation, the chargesheet was submitted on 14121999. It appears that the cognizance was taken by the Competent Court on the said chargesheet vide order dated 1432000 and the accused were ordered to be summoned. Since the accused have not appeared in the Court so far, non bailable warrants have been ordered to be issued against them, in order to procure their attendance in the Court.

7. The learned Counsel for the petitioners has confined his argument to the effect that no offence under Section 3(1)(x) of S.C. and ST. Act has been made out against the petitioners. The other Sections of I.P.C. have also been mentioned in the chargesheet. The Competent Court, at an appropriate stage, will determine as to whether any prima facie case has been made out under Section 3(1)(x) of S.C. and ST. Act, against the accused. The powers under Section 482, Cr.P.C. cannot be exercised to stifle the lawful prosecution.

8. In view of the aforesaid discussion, I am of the view that this petition lacks merit and it is dismissed accordingly.