
(2014) 04 AHC CK 0025

In the Allahabad High Court

Case No : Application U/S. 482 No. 10123 of 2014

Bittu @ Dharmendra

APPELLANT

Vs

State of U.P. And Another

RESPONDENT

Date of Decision : 16-04-2014

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 227, 228, 239, 482
Penal Code, 1860 (IPC) — Section 323, 392, 427, 504, 506

Citation : (2014) 04 AHC CK 0025

Hon'ble Judges : Vipin Sinha, J

Bench : Single Bench

Advocate : Mithilesh Kumar Tiwari, Advocate for the Appellant

Final Decision : Disposed Off

Judgement

Vipin Sinha, J.—Heard learned counsel for the applicant and learned A.G.A. for the State.

2. The present application u/s 482 Cr.P.C. has been filed for quashing the entire proceedings of Criminal Complaint Case No. 458 of 2013 (Arjun Singh Vs. Vipin and others), under Sections-392, 323, 504, 506 and 427 IPC, P.S.-Kotwali Dehat, District Bijnor pending in the court of learned Judicial Magistrate, Nagina, Court No. 1, Bijnor.

3. The contention of the counsel for the applicants is that no offence against the applicants is disclosed and the present prosecution has been instituted with a malafide intention for the purposes of harassment. He pointed out certain documents and statements in support of his contention.

4. From the perusal of the material on record and looking into the facts of the case at this stage it cannot be said that no offence is made out against the applicant. All the submissions made at the bar relate to the disputed questions of fact, which cannot be adjudicated upon by this Court u/s 482 Cr.P.C. At this stage only prima facie case is to be seen in the light of the law laid down by Supreme

Court in cases of R.P. Kapur Vs. The State of Punjab, , State of Haryana and others Vs. Ch. Bhajan Lal and others, , State of Bihar and Another Vs. P.P. Sharma, IAS and Another, and lastly Zandu Pharmaceutical Works Ltd. and Others Vs. Md. Sharaful Haque and Others, . The disputed defence of the accused cannot be considered at this stage. Moreover, the applicant has got a right of discharge u/s 239 or 227/228 Cr.P.C. as the case may be through a proper application for the said purpose and he is free to take all the submissions in the said discharge application before the Trial Court.

5. The prayer for quashing the entire proceedings of the aforementioned case is refused.

6. However, it is directed that if the applicant appears and surrenders before the court below within 45 days from today and apply for bail, his prayer for bail shall be considered and decided in view of the settled law laid by this Court in the case of Amarawati and Another (Smt.) Vs. State of U.P., as well as judgment passed by Hon''ble Apex Court reported in Lal Kamendra Pratap Singh Vs. State of U.P. and Others, .

7. For a period of 45 days from today or till the applicant surrenders and applies for bail whichever is earlier, no coercive action shall be taken against the applicant. However, in case, the applicant does not appear before the Court below within the aforesaid period, coercive action shall be taken against him.

8. With the aforesaid directions, this application is finally disposed off.