

(2014) 05 AHC CK 0161
In the Allahabad High Court
Case No : Case No. 20418 of 2014

Jagdish Yadav and 2 Others

APPELLANT

Vs

State of U.P. and Another

RESPONDENT

Date of Decision : 29-05-2014

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 227, 228, 239, 482
Penal Code, 1860 (IPC) — Section 323, 504, 506
Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 —
Section 3(1)(X)

Citation : (2014) 05 AHC CK 0161

Hon'ble Judges : Bala Krishna Narayana, J

Bench : Single Bench

Advocate : Rajesh Kumar Tiwari, Advocate for the Appellant

Final Decision : Disposed Off

Judgement

Bala Krishna Narayana, J.—Heard learned counsel for the applicants and learned A.G.A.

2. The present application u/s 482 Cr.P.C. has been filed for quashing the entire proceedings of Case No. 1378 of 2013 arising out of case crime no. 1000 of 2012, under Sections 323, 504, 506 IPC and section 3(1)(X) SC/ST Act, Police Station-Bhaluwani Deoria, District-Deoria pending before the Additional Civil Judge (Junior Division)/Judicial Magistrate, Room No. 19, Deoria as well as charge sheet dated 05.09.2012.

3. The contention of the counsel for the applicants is that no offence against the applicants are 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. Per contra learned A.G.A. submitted that 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 applicants. The submissions made by learned counsel for the applicants relate to 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 applicants have 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 they are free to take all the submissions in the said discharge application before the Trial Court.

5. The submissions made by learned A.G.A. have force.

6. The prayer for quashing the proceedings of the aforementioned case and the charge sheet is refused.

7. However, it is directed that if the applicants appear and surrender before the court below within 45 days from today and apply for bail, their 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, .

8. For a period of 45 days from today or till the applicants surrender and apply for bail whichever is earlier, no coercive action shall be taken against the applicants. However, in case, the applicants do not appear before the Court below within the aforesaid period, coercive action shall be taken against them.

9. With the aforesaid directions, this application is finally disposed of.