
(2011) 06 AHC CK 0056
In the Allahabad High Court

Kamal Singh Rana @ K.S.Rana

APPELLANT

Vs

State of U.P.and Another

RESPONDENT

Date of Decision : 24-06-2011

Acts Referred:

Citation : (2011) 06 AHC CK 0056

Hon'ble Judges : Bala Krishna Narayana, J

Final Decision : Disposed Of

Judgement

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

2. The present 482 Cr.P.C. petition has been filed for quashing the entire proceedings of Criminal Complaint Case pending before the learned Chief Judicial Magistrate, Ghaziabad in Case No. 2592 of 2003, under Sections 406, 409 I.P.C.

3. The contention of the counsel for the applicant is that no offence against the applicant is disclosed and the present prosecution has been instituted with a malafide intention for the purposes of harassment. He referred to 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 under Section 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. State of Punjab, A.I.R. 1960 S.C. 866, State of Haryana Vs. Bhajan Lal, 1992 SCC (Cr.) 426, State of Bihar Vs. P.P.Sharma, 1992 SCC (Cr.) 192 and lastly Zandu Pharmaceutical Works Ltd. Vs. Mohd. Saraful Haq and another (Para10) 2005 SCC (Cr.) 283.

5. The disputed defence of the accused cannot be considered at this stage. Moreover, the applicant has got right of discharge under Section 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.

6. The prayer for quashing the complaint is refused.

7. However, it is directed that the applicant shall appears and surrenders before the court below within 30 days from today and applies for bail, his prayer for bail shall be considered and decided as expeditiously as possible keeping in view of the settled law laid by this Court in the case of Amrawati and another Vs. State of u.P. reported in 2004 (57) ALR 290 as well as judgement passed by Hon''ble Apex Court reported in 2009 (3) ADJ 322 (SC) Lal Kamendra Pratap Singh Vs. State of u.P. For a period of 30 days from today no coercive action shall be taken against the applicant. However in case the applicants do 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 of.