
(2010) 09 AHC CK 0072
In the Allahabad High Court
Case No : U/S 482/378/407 No. 3641 of 2010

Kanhaiya Lal Yadav and Another

APPELLANT

Vs

State of U.P. and Another

RESPONDENT

Date of Decision : 14-09-2010

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482
Penal Code, 1860 (IPC) — Section 147, 148, 149, 323, 427
Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 —
Section 3(1)

Citation : (2010) 09 AHC CK 0072

Hon'ble Judges : Raj Mani Chauhan, J

Bench : Single Bench

Judgement

Raj Mani Chauhan, J.—Heard learned Counsel for the petitioners and learned Additional Government Advocate for the State as well as perused the documents available on record.

2. This petition u/s 482 of the Code of Criminal Procedure (hereinafter referred to as the "Code") has been filed by the petitioners with the following prayers:

It is prayed that the Hon'ble Court may graciously be pleased to quash the Charge-sheet No. 15 of 2008 dated 11.7.2008 as well as the order of summoning dated 17.11.2008 and the further proceedings of Criminal Cae No. 2233 of 2008 (State v. Kanhaiya Lal and Ors.), under Sections 147/148/149/447/427/323/504/506 IPC and 3(1)(x) SC/ST Act pending in the Court of Additional Judicial Magistrate-II, Lucknow.

3. The submission of learned Counsel for the petitioners is that admittedly there is a civil dispute between the parties. The complainant is said to be "Bataidar" of the disputed property. The accused-petitioner No. 1-Kanhaiya Lal Yadav is a practicing advocate in the District Court, Lucknow. The accused-petitioner No. 2-Manish is an Assistant Teacher in Sitapur. They did not participate in the so called incident. They have been falsely implicated by the complainant on the ground of

enmity and moreover the complainant has not assigned any specific role to the accused-petitioners which falsifies the involvement of these accused in the so called incident. The Investigating Officer has not fairly investigated the case; rather he in a mechanical way has submitted the charge-sheet against the accused without any reliable and cogent evidence. Therefore, the charge-sheet filed by the Investigating Officer as well as the criminal proceedings arising out of the said charge-sheet are liable to be quashed.

4. Learned A.G.A. opposed the petition.

5. Considered the submissions of learned Counsel for the petitioners and learned A.G.A. for the State.

6. I have gone through the documents available on record. The Investigating Officer after investigation of the case has found evidence in support of commission of offence under Sections 147/148/149/447/427/323/504/506 IPC and 3(1)(x) SC/ST Act against the accused and submitted charge-sheet before the learned Additional Chief Judicial Magistrate-II, Lucknow consequently he has taken the cognizance of the offence on the aforesaid charge sheet and summoned the accused which in my opinion does not suffer from any infirmity and the same does not call for any interference.

7. The petition is devoid of any merit and is liable to be dismissed.

8. The petition is, therefore, dismissed.

9. However, keeping in view the facts and circumstances of the case as well as the nature of offence, it is provided that in case the accused appear before the court below within 20 days from today and move any application for bail, the same will be heard and disposed of by the courts below expeditiously preferably on the same day in view of the law down by Full Bench of this Hon"ble Court in Srimati Amrawati and Anr. v. State of U.P. reported in 2004 CBC 705 and by Hon"ble Apex Court in Lal Kamendra Pratap Singh Vs. State of U.P. and Others,

10. It is also provided that in case the accused after release on bail move any application for their discharge at the appropriate stage of trial before the Trial Court, the same will be disposed of by the Trial Court by passing speaking and reasoned order. It is further provided that in case the accused after their release on bail move any application to appear through counsel before the Trial Court, the same will be considered by the Trial Court leniently.

11. Till then no coercive steps will be taken by the Trial Court against the accused.