
(2014) 01 AHC CK 0103

In the Allahabad High Court

Case No : Application U/s 482 No. 1365 of 2014

Man Mohan Yadav and Others

APPELLANT

Vs

State of U.P. and Another

RESPONDENT

Date of Decision : 16-01-2014

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482
Penal Code, 1860 (IPC) — Section 380 411 457

Citation : (2014) 01 AHC CK 0103

Hon'ble Judges : Virendra Vikram Singh, J

Bench : Single Bench

Advocate : Satyendra Pandey, for the Appellant;

Final Decision : Disposed Off

Judgement

Virendra Vikram Singh, J.—Heard learned counsel for the applicants and learned AGA. By moving the present application u/s 482 Cr.P.C., charge sheet No. 75 of 2013 and proceedings of Case No. 3984 of 2013, arising out of Case Crime No. 76 of 2013, under Sections 457, 380, 411 IPC, P.S. Kotwali, District Gorakhpur, have been prayed to be quashed.

2. It is not disputed that the civil dispute between the parties about the vacation of the house in question is pending. Applicant No. 1 is the son of the landlord and others are close relative of the landlord.

3. 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 relates to the disputed question 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 before the trial Court through a proper application for the said purpose and he is free to take all the submission in the said discharge application before the Trial Court.

4. No case for quashing the charge-sheet and proceedings is made out and as such the prayer is declined.

5. However, it is directed that if the applicants appear and surrender before the court below within 30 days from today along with the certified copy of this order and apply for bail, their prayer for bail may 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., and the decision of the Hon"ble Supreme Court in the case of Lal Kamendra Pratap Singh Vs. State of U.P. and Others, , after hearing the public prosecutor.

6. For a period of 30 days from today or till the disposal of the application for grant of bail, whichever is earlier, no coercive process shall be taken against the applicants.

7. However, in case the applicants do not appear before the Court below within the aforesaid period, coercive action shall be taken against them and no protection of this order shall be available to them.

8. It is being made clear that the Court has not expressed any opinion on the merits of the case and the subordinate court shall exercise its independent discretion in deciding the application for bail. With the aforesaid directions, this application is finally disposed of.