
(2008) 03 AHC CK 0170

In the Allahabad High Court

Case No : Criminal Miscellaneous Application No. 3455 of 2008

Manga and others

APPELLANT

Vs

State of U.P.and another

RESPONDENT

Date of Decision : 31-03-2008

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482
Penal Code, 1860 (IPC) — Section 465, 468

Citation : (2008) 03 AHC CK 0170

Hon'ble Judges : Amar Saran, J

Final Decision : Disposed Of

Judgement

Amar Saran, J.—Heard learned Counsel for the applicants and the learned A.G.A.

2. This application under section 482 Cr.P.C. has been filed for quashing all proceedings in Complaint Case No. 1959 of 2007, (Rajeev v. Manga and others) under sections 465, 468, IPC, pending before the Court of Additional Chief Judicial Magistrate, Kairana, district Muzaffarnagar.

3. Learned Counsel for the applicants submits that the applicants are brother and nephew of the "deceased Brahma, who died in 2002. Thereafter, they moved an application for mutation of the names, which was allowed.

4. However, opposite party No. 2 challenged the same and filed objections before the Mutation Authorities that the deceased had left a Will in his favour, but even after the matter was heard on merit, an order in favour of opposite party No. 2 was not passed. Thereafter, a complaint case was filed maliciously alleging that the applicants had filed the forged death certificate of Brahma and thereafter the applicant was summoned under sections 465, 468 IPC by an order of the A.C.J.M. dated 6.12.2007.

5. As some questions of facts are involved, which can properly be decided by the Trial Court, I find no ground for quashing the criminal proceedings.

6. However, in view of the circumstances of the case, it is provided that if the applicants surrender before the Court concerned within 3 weeks from today in the aforesaid case and apply for bail, the same shall be disposed of expeditiously, if possible, on the same day provided the applicants communicate their intention to surrender before the Court concerned seven days in advance so that the prosecution may have all the documents available and not seek adjournment on that account as held by the Apex Court in the case of Naresh Kumar v. Ravindra Kumar: 2008 (1) SCC 632 (paragraph 8)

7. Thereafter, if the applicants are granted bail, the Trial Court may permit the applicants to appear through Counsel and raise their objections to the initiation of trial proceedings against them at the stage of framing of charges. This relief is being granted up to the stage of framing of charges provided the applicants after securing bail give an undertaking to the satisfaction of the trial Court that (a) their Counsel will remain present on their behalf and represent them on each date, (b) they will not raise any objection as to their being the actual person who is facing trial, (c) they do not object to the evidence being recorded in their absence, (d) they undertake to be present before the Court whenever called upon to do so at any stage.

8. These undertakings are being taken in the light of the directions of the Supreme Court in the case of M/s. Bhaskar Industries Limited v. Bhiwani Denim and Apparels Limited. 2001(43) ACC 760 (SC) This relief of appearing through Counsel on the terms and conditions mentioned above will only be available to the applicants provided they appear within one month from the date of this order and obtain bail in the Court below.

With these observations this application is disposed of.