
(2012) 01 AHC CK 0210
In the Allahabad High Court
Case No : Application No. 1769 of 2012

Manish Gupta and Another	Vs	APPELLANT
State of U.P. and Another		RESPONDENT

Date of Decision : 16-01-2012

Acts Referred:

Copyright Act, 1957 — Section 63, 64
Criminal Procedure Code, 1973 (CrPC) — Section 227, 228, 239, 245, 482
Penal Code, 1860 (IPC) — Section 420, 469, 486

Citation : (2012) 01 AHC CK 0210

Hon'ble Judges : Bala Krishna Narayana, J

Bench : Single Bench

Judgement

Hon"ble Bala Krishna Narayana, J.—Heard Learned Counsel for the applicants and learned A.G.A. This application u/s 482 Cr.P.C. has been filed for quashing the charge sheet dated 24.8.2011 submitted in case No. 1590 of 2011 on which the learned Judicial Magistrate, Mauranipur, District Jhansi has taken cognizance of the offences punishable under Sections 420, 469, 486 I.P.C. and 63/64 Copy Right Act, P.S. Uldan, district Jhansi in case crime No. 235 of 2010.

2. The contention of Learned Counsel for the applicants is that no offence against the applicants is 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.

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 applicants. All the submissions made at the bar relate to the 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 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 (Para-10) 2005 SCC (Cr.) 283. 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, 245 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.

4. The prayer for quashing the charge sheet is refused.

5. However, it is directed that in case the applicants appear and surrender before the court below within 30 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 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 applicants. However, in case, the applicants do not appear before the Court below within the aforesaid period, coercive action shall be taken against them. It is further provided that in case the applicants move an application for discharge along with certified copy of this order before the court concerned, the same shall be dealt with in accordance with law at appropriate stage.