

(2013) 02 AHC CK 0160
In the Allahabad High Court

Mohd.Khalid Siddiqui and Others

APPELLANT

Vs

State of U.P. and Another

RESPONDENT

Date of Decision : 07-02-2013

Acts Referred:

Citation : (2013) 02 AHC CK 0160

Hon'ble Judges : Ramesh Sinha, J

Final Decision : Dismissed

Judgement

Ramesh Sinha, J.—Heard Sri Sameer Jain, learned counsel for the applicants and learned A.G.A.

2. This application under Section 482 Cr.P.C. has been filed for quashing the proceedings of Complaint Case No. 3004 of 2012 (Kashmina Mazhar vs. Mohd. Khalid Siddiqui and others) under Sections 498A, 323, 504, 506 I.P.C. and 3/4 D.P. Act, police station Adampur, District Varanasi pending before the Additional Chief Judicial Magistrate, Court No.7, Varanasi.

3. It has been contended by the learned counsel for the applicants that the applicant no.1 has sent a Talak notice to opposite party no.2 along with bank draft for Mehar and Iddat. The opposite party no.2 has accepted the said notice and encashed the draft amount in her bank account.

4. After having very carefully examined, the submissions made by the learned counsel for the applicants and perused the material brought on record, I find that applicant no.1 is concerned, there is no justification for quashing the prosecution of the aforementioned case.

5. The prayer to that extent on behalf of applicant no.1, namely, Mohd. Khalid Siddiqui is hereby refused.

6. However, it is directed that in case the applicant no.1 appears and surrender before the court below within 30 days from today and applies for bail, his 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.

7. It is made clear that the applicant no.1 will not be granted any further time by this Court for surrendering before the Court below as directed above.

8. So far as applicant nos.2 to 6 are concerned, it has been contended by learned counsel for the applicants that they are the sister, brothers and sisterinlaw of applicant no.1 and the allegation levelled against them are wholly vague and no specific allegation has been levelled against them. Learned counsel for the applicants has placed reliance on the judgment of the Apex Court in the case of Geeta Mehrotra Vs. State of U.P. and others reported in 2012 (10) ADJ 464.

9. Notice on behalf of opposite party no. 1 has been accepted by learned A.G.A.

10. Issue notice to opposite party no.2 returnable within four weeks at the address given in the application. If the requisites for issuing the notice under Registered Postal Cover with Acknowledgment Due are not filed within ten days, this application shall stand dismissed without further reference to any Bench of this Court. Opposite party no.2 may file counter affidavit within four weeks. Learned A.G.A. may also file counter affidavit within the same period. Rejoinder affidavit may thereafter be filed within two weeks.

11. List immediately after expiry of the aforesaid period before appropriate Bench.

12. Till the next date of listing, further proceedings of the aforesaid case shall remain stayed against applicant nos. 2 to 6.