

(2012) 02 AHC CK 0286
In the Allahabad High Court
Case No : Criminal Revision No. 374 of 2012

Nand Lal Yadav and Others

APPELLANT

Vs

State of U.P. and Another

RESPONDENT

Date of Decision : 07-02-2012

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 227, 228, 239
Penal Code, 1860 (IPC) — Section 147, 149, 307, 323, 504
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Penal Code, 1860 (IPC) — Section 147, 149, 307, 323, 504

Citation : (2012) 02 AHC CK 0286

Hon'ble Judges : Surendra Singh, J

Bench : Single Bench

Final Decision : Disposed Of

Judgement

Hon"ble Surendra Singh, J.—Heard learned counsel for the revisionists as well as learned A.G.A. for the State perused the material placed on record.

2. The present revision has been filed for setting aside the order dated 1.10.2011 passed by Additional Sessions Judge, Court No.11, Varanasi in Sessions Trial No. 531 of 2011 (State vs. Nand Lal Yadav & 4 others) by which the learned Additional Sessions Judge has framed charges against the revisionists under Sections 147, 149, 323, 307, 504 and 506 I.P.C.

3. The contention of the learned counsel for the revisionists is that no offence against the revisionists is disclosed and the present prosecution has been instituted with malafide intentions for the purposes of harassment. He pointed out certain documents and statements in support of his contentions. He has further contended that charges has been framed against them on 1.10.2011 but the trial has not commenced and is likely to consume some time to conclude. He has further contended that it transpires that the order framing charge has been passed mechanically in a routine manner and without application of judicial mind

and is liable to be set aside.

4. From the perusal of material on record and looking into the facts of the case at this stage it cannot be said that no offence is disclosed against the revisionists. All the submissions made at the bar relate to the disputed questions of fact, which cannot be adjudicated upon by this court in revisional jurisdiction. At this stage only a prima facie case is to be seen in the light of the law laid down by the Hon. Apex Court in catena of decisions. The disputed defence of the accused cannot be considered at this stage. This aspect of the matter has recently been considered by the Hon'ble Apex Court in the case of 2009(65) ACC 399, Palvinder Singh Vs. Balvinder Singh, wherein it has been held that the Court cannot enter into realm of appreciation of evidence at the stage of framing of the charge itself. The jurisdiction of the trial court while exercising power under Sections 227, 228 or 239 Cr.P.C., as the case may be, is limited.

5. The charges also can be framed on the basis of strong suspicion. Marshalling and appreciation of evidence is not in the domain of the Court at the point of time.

6. However, I direct the trial court to expedite the hearing of the trial of the revisionists and make an endeavour to conclude it within reasonable period. It will be open to the trial court to alter or add to any charge at any time before the judgment is pronounced depending upon the nature of evidence adduced by the witnesses.

7. With these observations, the revision is finally disposed of.