
(2012) 01 AHC CK 0300
In the Allahabad High Court
Case No : Application No. 42237 of 2011

Raj Kumari Sharma and Others

APPELLANT

Vs

State of U.P. and Another

RESPONDENT

Date of Decision : 11-01-2012

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482
Penal Code, 1860 (IPC) — Section 323, 34, 452, 504, 506

Citation : (2012) 01 AHC CK 0300

Hon'ble Judges : Arvind Kumar Tripathi, J

Bench : Single Bench

Judgement

Hon'ble Arvind Kumar Tripathi, J.—Learned counsel for the applicant is permitted to correct the prayer of memo of the application.

2. Heard learned counsel for the applicant, learned A.G.A. and perused the record.

3. This application u/s 482 Cr.P.C. has been filed for quashing of the summoning order dated 21.10.2009 passed by the Judicial Magistrate, Court No. 9 Jhansi (Saroj vs. Smt. Ram Kumari and others) in Case No. 708/10 under sections 34, 452, 504, 506, 323 I.P.C. PS. Prem Nagar, Jhansi.

4. Learned counsel for the applicant contended that the opposite party No. 2 is not real sister-in-law (Bhabhi) of the applicant No. 1. On the basis of the false fact she got job in place, after death of brother of the applicant though she is not wife of Madan Mohan Sharma. When the complaint was filed on behalf of the applicant against her and then on the false and concocted story that the applicant entered into the house abused, assaulted and threatened them to kill. In fact no such incident took place. However, the entire proceeding is malicious, hence the same is liable to quashed.

5. Learned A.G.A. opposed the aforesaid prayer.

6. Considering the facts and circumstances and nature of the allegation, at this stage, it cannot be said that prima facie no offence is made out. The defence of the applicant may be correct, however, the same has to be examined on the basis of the evidence adduced by the parties at appropriate stage.

7. However, in view of the facts and circumstances of the case, it is provided that if the applicants appear before the court concerned within three weeks from today and apply for bail, it is expected that the same shall be considered and disposed off, if possible on the same day, in view of the guidelines by Full Bench decision of High Court in case of Amrawati and another vs. State of U.P. reported in 2004 (57) ALR-390 and by the Apex Court in Lal Kamlendra Pratap Singh Vs. State of U.P. and Others, . In view of the aforesaid case, if due to any reason the bail application could not be disposed off same day, the applicant may be released on interim bail.

8. For a period of three weeks, the non bailable warrant issued against the applicants shall remain stayed.

9. With the aforesaid observation this application filed u/s 482 Cr.P.C. is disposed off finally.