
(2014) 06 AHC CK 0041
In the Allahabad High Court
Case No : Application No. 21142 of 2014

Rajeev Kumar Gupta

APPELLANT

Vs

State of U.P.

RESPONDENT

Date of Decision : 05-06-2014

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 227, 228, 239, 245, 482
Penal Code, 1860 (IPC) — Section 323, 406, 420, 504
Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 —
Section 3(1)(X)

Citation : (2014) 06 AHC CK 0041

Hon'ble Judges : Bachchoo Lal, J

Bench : Single Bench

Advocate : Arvind Kumar Srivastava, Advocate for the Appellant

Final Decision : Disposed Off

Judgement

Bachchoo Lal, J.—Heard learned counsel for the applicants and learned A.G.A. for the State.

2. This application u/s 482, Cr.P.C. has been filed for quashing the proceedings of criminal case No. 798 of 2014 under Sections 406, 420, 323, 504 IPC and 3(1) (X) SC/ST Act, pending in the court of Chief Judicial Magistrate, Kannauj.

3. The contention of the 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.

4. 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 relates to the disputed question of fact, which cannot be adjudicated upon by this Court in exercise of power conferred 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 and others Vs. Ch. Bhajan Lal and others, , State of Bihar and Another Vs. P.P. Sharma, IAS and Another, and lastly Zandu Pharmaceutical Works Ltd. and Others Vs. Md. Sharaful Haque and Others, . 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 or 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.

5. The prayer for quashing the proceedings is refused.

6. However, it is directed that if the applicants appear and surrender before the court below within 30 days from today and apply for bail, then the bail application of the applicants be considered and decided in view of the settled law laid by this Court in the case of Amarawati and Another (Smt.) Vs. State of U.P., as well as judgment passed by Hon''ble Apex Court reported in Lal Kamendra Pratap Singh Vs. State of U.P. and Others, . For a period of 30 days from today or till the disposal of the application for grant of bail whichever is earlier, 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.

7. With the aforesaid directions, this application is finally disposed of.