
(2010) 02 AHC CK 0190

In the Allahabad High Court

Case No : Criminal Miscellaneous Case No. 471 of 2010

Ram Lakhan Singh and others

APPELLANT

Vs

State of U.P.and others

RESPONDENT

Date of Decision : 03-02-2010

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482

Citation : (2010) 02 AHC CK 0190

Hon'ble Judges : Alok Kumar Singh, J

Final Decision : Disposed Of

Judgement

Alok K. Singh, J.—Heard the learned Counsel for the petitioners and learned A.G.A. who has put in appearance on behalf of opposite party Nos. 1 and 2.

2. At this stage notice in respect of opposite party No. 3 is dispensed with.

3. The application under section 482 Cr.P.C. has been filed for quashing the impugned chargesheet dated 25.3.2005 arising out of Case Crime No. 265 of 2007, under sections 323, 504 and 506 I.P.C. and section 3 (1) X S.C./S.T. Act, Police Station Harchandpur, District Rae Bareli.

4. The chargesheet has been filed on the basis of the accusation made in the F.I.R. and the evidence collected during investigation including the statements under section 161 Cr.P.C. The other averments are factual in nature that cannot be adjudicated in the present application. There does not appear to be any sufficient cogent ground for quashing of the chargesheet or entire proceedings.

Learned Counsel for the petitioners however submits that the offences are triable by Magistrate and not so grave except section 3 (1) (x) S.C.S.T. Act. He also submits that petitioner No. 1 is 83 years of age and as such he has become infirm who is entitled to get the benefit of the relevant provisions contained in section 437 Cr.P.C in respect of granting bail in favour of infirm persons. Nevertheless, all the petitioners being law abiding citizens intend to participate in the proceedings after seeking bail.

5. Without entering into the merits of the case in view of the aforesaid facts and circumstances, it is directed that if the applicants appear before the Court concerned and apply for bail within one month from today, both the Courts below shall dispose of the application expeditiously, if possible, on same day in accordance with the Full Bench decision of this Court in the case of Srimati Ammwati and another v. State of U.P., 2004 (50) ACC 742 (HCF.B.), and Lal Kamendra Pratap Singh v. State of U.P., 2009 (67) ACC 966 (SC) = 2009 (84) AIC 84 (SC), Thereafter, the trial Court may permit the applicants to appear through Counsel and raise their objection, if any, against the initiation of trial proceedings against them at the stage of framing of charges. This relief is being granted upto the stage of framing of charges only provided the applicants after securing bail (1) furnish an undertaking to the satisfaction of the Trial Court that their Counsel will remain present on their behalf and will represent them on each and every date, (2) they will not raise any objection as to the actual presence of the person who is facing trial, (3) an undertaking will also be given to the effect that they will be present before the Court whenever called upon to do so at any stage. These directions are being accorded in the light of the observations made by Hon"ble Apex Court in the cases of M/s. Bhaskar Industries Ltd. v. Bhiwani Denim and Apparels Limited, 2001 (43) ACC 760 (SC).

6. Till the aforesaid period of one month, bailable/nonbailable warrant, if any, shall be kept in abeyance.

7. In respect of petitioner No. 1 it is also provided that since he is said to be aged about 83 years and an infirm person if his bail is not decided on the same day for some reasons or the other he may be enlarged on interim bail till the pendency of his regular bail application.

8. With these observations this application under section 482, Cr.P.C. is finally disposed of.