
(2013) 07 AHC CK 0095

In the Allahabad High Court

Case No : Application U/S. 482 No. 20540 of 2013

Ram Lalit

APPELLANT

Vs

State of U.P. and Another

RESPONDENT

Date of Decision : 02-07-2013

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482
Penal Code, 1860 (IPC) — Section 147, 148, 149, 307, 323

Citation : (2013) 07 AHC CK 0095

Hon'ble Judges : Rajesh Dayal Khare, J

Bench : Single Bench

Advocate : R.P. Srivastava, for the Appellant;

Final Decision : Disposed Of

Judgement

Rajesh Dayal Khare, J.—Heard learned counsel for the applicant and learned A.G.A. The present 482 Cr. P.C. petition has been filed for quashing proceedings of Criminal Case No. 9275 of 2006 arising out of Case Crime No. 71 of 2005 under Sections 147, 148, 149, 323, 324, 504, 506, 307 I.P.C., Police Station Lalganj, District Basti, pending before learned Chief Judicial Magistrate, District Basti.

2. It is contended by learned counsel for the applicant that it is a cross case in which both sides have received injuries and at this stage it cannot be said as to who was aggressors and the incident had taken place at the spur of the moment. It is further contended that no offence against the applicant is disclosed and the present prosecution has been instituted with a mala fide intention for the purposes of harassment. He pointed out certain documents and statements in support of his contention.

3. 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 applicant. All the submission made at the bar relates to the disputed question of

fact, which cannot be adjudicated upon by this Court 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 another Shri S.A. Khan, , State of Bihar and Another Vs. P.P. Sharma, IAS and Another, and lastly Zandu Pharmaceutical Works Ltd. Vs. Mohd. Saraful Haq and another (Para-10) 2005 SCC (Cr.) 283.

4. The disputed defence of the accused cannot be considered at this stage.

5. The prayer for quashing the proceedings is refused.

6. However, it is provided that if the applicant appears and surrenders before the court below within 30 days from today and applies for bail, his prayer for bail may 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 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 applicant.

7. However, in case, the applicant does not appear before the Court below within the aforesaid period, coercive action shall be taken against him. With the aforesaid directions, this application is finally disposed off.