

(2014) 04 AHC CK 0362

In the Allahabad High Court

Case No : Application U/S. 482 No. 10219 of 2014

Rama Kant and 3 Ors.

APPELLANT

Vs

State of U.P. and Another

RESPONDENT

Date of Decision : 10-04-2014

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 227, 228, 239, 482
Penal Code, 1860 (IPC) — Section 308, 323, 325, 504, 506

Citation : (2014) 04 AHC CK 0362

Hon'ble Judges : Bala Krishna Narayana, J

Bench : Single Bench

Advocate : Manoj Kumar Singh, Advocate for the Appellant

Final Decision : Disposed Off

Judgement

Bala Krishna Narayana, J.—Heard learned counsel for the applicants and learned A.G.A. The present application u/s 482 Cr.P.C. has been filed for quashing the entire proceedings of Case No. 118 of 2014, State Vs. Rama Kant and others, under Sections- 308, 325, 504, 506, 323 IPC, P.S.-Uska Bazar, District Siddharth Nagar pending before Judicial Magistrate, Siddharth Nagar as well chargesheet dated 31.10.2013.

2. The contention of the counsel for the applicants is that no offence against the applicants are 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.

3. Per contra learned A.G.A. submitted that 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. The submissions made by learned counsel for the applicants relates to disputed question of facts, 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 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 Cr.P.C. as the case may be through a proper application for the said purpose and he is free to take all the submissions in the said discharge application before the Trial Court.

4. The submissions made by learned A.G.A. have force.

5. The prayer for quashing the proceedings of the aforementioned case and the chargesheet is refused.

6. However, it is directed that if the applicants appear and surrender before the court below within 45 days from today and apply for bail, their prayer for bail shall 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,

7. For a period of 45 days from today or till the applicants surrender and apply for 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. With the aforesaid directions, this application is finally disposed of.