
(2014) 01 AHC CK 0091

In the Allahabad High Court

Case No : Application U/S. 482 No.-2451 of 2014

Roop Kishor and Others

APPELLANT

Vs

State of U.P. and Another

RESPONDENT

Date of Decision : 31-01-2014

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 227 228 239 245 482
Penal Code, 1860 (IPC) — Section 323 504 506

Citation : (2014) 01 AHC CK 0091

Hon'ble Judges : Rajesh Dayal Khare, J

Bench : Single Bench

Advocate : Pradeep Kumar Shukla, for the Appellant;

Final Decision : Disposed Off

Judgement

Rajesh Dayal Khare, J.—Heard learned counsel for the applicants and learned A.G.A. for the State. This application u/s 482, Cr.P.C. has been filed for quashing the proceedings of case No. 1299 of 2013 arising out of NCR No. 122 of 2013 under Sections 323, 504, 506 IPC, police station Cantt. district Bareilly pending in the court of Additional Chief Judicial Magistrate, Court No. 5 Bareilly.

2. It is contended by learned counsel for the applicants that the applicant No. 3 and the opposite party No. 2 are real brothers and an NCR was lodged from both the sides as has been stated in paragraph-5 of the affidavit accompanying this application. It is next contended that it is a cross case and some altercation took place in which both sides have received simple injuries. The further contention of the 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.

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

applicants. All the submission 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.

4. The prayer for quashing the proceedings is refused.

5. However, it is provided 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. With the aforesaid directions, this application is finally disposed of.