

(2014) 03 AHC CK 0034
In the Allahabad High Court
Case No : U/S. 482/378/407 No.-6403 of 2013

Sitaram and Others

APPELLANT

Vs

The State of U.P. and Others

RESPONDENT

Date of Decision : 11-03-2014

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 227 228 239 482
Penal Code, 1860 (IPC) — Section 323 504 506
Securitisation and Reconstruction of Financial Assets and Enforcement of Security
Interest Act, 2002 (SARFAESI) — Section 3(1)X

Citation : (2014) 03 AHC CK 0034

Hon'ble Judges : Bala Krishna Narayana, J

Bench : Single Bench

Advocate : Singh Veer Yadav and Mohd. Kamal Khan, for the Appellant; Praveen Tripathi, Govt. Advocate, for the Respondent

Final Decision : Disposed Off

Judgement

Bala Krishna Narayana, J.—Heard learned counsel for the applicants, Sri Praveen Tripathi, learned counsel for the opposite party No. 4 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. 92A of 2012, under Sections 323, 504, 506 I.P.C. and section 3(1)X SC/ST Act, P.S. Aalapur, district-Ambedkar Nagar, as well chargesheet dated 08.02.2013.

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. 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 relate to the disputed questions 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 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 prayer for quashing the proceedings of the aforementioned case and the chargesheet is refused.

5. 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, . 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.