
(2012) 01 AHC CK 0105
In the Allahabad High Court
Case No : Application No. 1732 of 2012

Suresh Chandra Kaushik and Another	APPELLANT
Vs	
State of U.P. and Another	RESPONDENT

Date of Decision : 16-01-2012

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 245, 482
Penal Code, 1860 (IPC) — Section 323, 420, 504, 506

Citation : (2012) 01 AHC CK 0105

Hon'ble Judges : Bala Krishna Narayana, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Hon"ble 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 summoning order dated 30.6.2010 passed by Civil Judge (S. D.)/Additional Chief Judicial magistrate, Hathras by which the applicants have been summoned for facing trial for the offence punishable under Sections-420, 323, 504 and 506 IPC and entire proceedings of Complaint Case No. 18 of 2010, pending in the Court of Civil Judge (S. D.)/Additional Chief Judicial magistrate, Hathras.

2. The 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 submissions made at the bar relate 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 Vs.

Bhajan Lal, 1992 SCC (Cr.) 426, State of Bihar Vs. P.P. Sharma, 1992 SCC (Cr.) 192 and lastly Zandu Pharmaceutical Works Ltd. Vs. Mohd. Saraful Haq and another (Para-10) 2005 SCC (Cr.) 283. The disputed defence of the accused cannot be considered at this stage. Moreover, the applicants have got a right of discharge under Section-245 Cr.P.C. 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 summoning order as well as proceedings of the aforementioned complaint case 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, their prayer for bail shall be considered and decided in view of the settled law laid down by this Court in the case of Amrawati and another Vs. State of U.P. reported in 2004 (57) ALR 290 as well as judgement passed by Hon''ble Apex Court reported in 2009 (3) ADJ 322 (SC) Lal Kamendra Pratap Singh Vs. State of U.P. For a period of 30 days from today no coercive action shall be taken against the applicants. It is being made clear that in case the applicants fail to surrender before the concerned court within the period indicated hereinabove, this application shall stand dismissed without any further reference to this Court. Subject to the aforesaid directions, this application is finally disposed of.