

(2017) 04 AHC CK 0089
In the Allahabad High Court
Case No : 19149 of 2010

Vidhan Chandra Sharma And Another	APPELLANT
Vs	
State Of U.P. & Another	RESPONDENT

Date of Decision : 04-04-2017

Acts Referred:

[Code of Criminal Procedure, 1973](#), [Section 482](#) - Saving of inherent powers of High Court
[Indian Penal Code, 1860](#), [Section 323](#),
[Section 506](#), [Section 504](#) -
Punishment for voluntarily causing hurt - Punishment for criminal ,intimidation -
Intentional insult with intent to provoke breach of the peace
[Scheduled Castes and Scheduled Tribes \(Prevention of Atrocities\) Act, 1989](#), [Section 3\(1\)](#) - Punishments for offences of atrocities

Citation : (2017) 04 AHC CK 0089

Hon'ble Judges : Om Prakash

Bench : Single Bench

Final Decision : Disposed Off

Judgement

1. The present application has been filed by the applicants under Section 482 Cr.P.C. with the prayer to quash the entire proceedings arising out of criminal case no. 2395 of 2010 (State Vs. Vidhan Chandra Sharma and others) in case crime no. 81 of 2010, under Sections 323, 504, 506 IPC and Section 3 (1) X SC/ST Act, P.S. Kwarsi, district Aligarh pending in the court of Chief Judicial Magistrate, Aligarh as well as to quash the charge sheet no. 4 of 2010 submitted by the Investigating Officer in the aforesaid case crime.

2. List revised.

3. Sri Satendra Kumar Upadhyay, learned counsel for the applicant is present. None appears for the opposite party no. 2. Learned AGA appears for the State.

4. It is submitted by the learned counsel for the applicants that the present prosecution was started in connivance of Yagya Dutt Sharma as in the drain in front of his house some constructions were going on but he was obstructing in

carrying out the constructions. Opposite party no. 2, who belongs to Scheduled Caste category initiated the aforesaid proceedings on the basis of false facts. It was further argued that prosecution case is not supported by medical evidence. Earlier applicants had moved application challenging the obstructions created by Yagya Dutt Sharma in construction of the drainage. No such incident ever took place.

5. On the other hand, learned AGA has submitted that prima facie case is made out. There is no illegality or infirmity in the order.

6. Having regard to the facts and circumstances of the case, after perusing the entire record and having considered the submissions made by the learned counsel for the parties, I am of the view that it cannot be said that no prima facie case is made out against the applicant. Specific allegations have been levelled against the applicants to abuse the opposite party no. 2 and also to cause injuries with kicks and fists. The facts raised in this application require leading of evidence which can only be dealt with by the trial court. At this stage the court dealing with the matter has to see only prima facie case. No ground is made out to invoke the inherent jurisdiction under Section 482 Cr.P.C. Hence, the prayer made in the present application is refused.

7. However, it is observed that in case the applicants surrender before the court below and apply for bail within thirty days from today, the same shall be considered and decided in view of the settled law. For a period of thirty days from today, no coercive action shall be taken against the applicants.

8. It is made clear that no further time shall be allowed to the applicants for surrender before the court concerned.

9. With the above observations, the application stands disposed of.