

Ajay and ors. Vs State of U.P. and anr.

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Court : Allahabad

Decided On : Sep-03-2010

Judge : Rajesh Dayal Khare, J.

Appeal No. : APPLICATION U/S 482 No. - 27640 of 2010.

Appellant : Ajay and ors.

Respondent : State of U.P. and anr.

Advocate for Pet/Ap. : Sushil Kumar Pandey, Adv.

Judgement :

1. Heard learned counsel for the applicants and learned A.G.A.The present 482 Cr.P.C. petition has been filed for quashing theproceeding of complaint case No.479/9 of 2009 State vs. Ajay and others) case Crime No.213-A of 2007 under Sections 147, 148, 149, 307, 504, 506, 452 of I.P.C. P. S. Kandhla, District Muzaffar Nagar pending before the Court of learned Additional Chief Judicial Magistrate, Court No.1 Kairana, District Muzaffar Nagar It is contended that the present proceedings is nothing but a counter blast to the proceedings initiated by the applicant's side against the opposite party no.2 which is nothing but gross misuse of the process of law.

2. It has been averred in the present application under Section 482 Cr.P.C., that no offence against the applicants is disclosed and the present prosecution has been instituted with a malafide intention for the purposes of harassment.

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. At this stage only prima facie case is to be seen. Moreover, the applicants have got right of discharge under Section 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. The prayer for quashing the proceedings is refused.

4. However, it is provided that if the applicants appear and surrender before the court below within 30 days from the date of communication of this order to the concerned court below 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 Amrawati and another v. 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 v. State of U.P. For a period of 30 days from date of communication of this order to the concerned court below 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 off.

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