

Rajesh and Another. Vs. State of U.P.

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Court : Allahabad

Decided On : Jul-13-2010

Judge : Rajesh Dayal Khare,J.

Acts : Indian Penal Code (IPC) - Sections 406, 420, 506.

Appeal No. : APPLICATION U/S 482 No. - 27736 of 2010.

Appellant : Rajesh and Another.

Respondent : State of U.P.

Advocate for Pet/Ap. : B.S. Pankaj,Adv.

Judgement :

1. Heard learned counsel for the applicants and learned AGA for the Staterespondent. The present 482 Petition has been filed for quashing of the order dated 21.07.2010 passed in criminal case no. 3415 of 2009 (Satpal v. State of U.P.) in case crime no. 832 of 2009 under sections 406, 420, 506 IPC pending before the 1st A.C.J.M., Ghaziabad and also for quashing of the cognizance taken order dated 01.09.2009 and the order dated 07.07.2009 issuing nonbailable warrant against the applicants

2, It is contended by the learned counsel for the applicants that the matter is purely of civil nature and the discharge application of the applicants has been dismissed by the concerned Magistrate by order dated 18.01.2010, which is bad in law.

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 under Section 482 Cr.P.C. At this stage only prima facie case is to be seen.

4. The prayer for quashing the cognizance taking order and order issuing nonbailable warrant is refused. 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 their prayer for bail shall be considered in view of the settled law laid by the Seven Judges' decision of this Court in the case of Amrawati and another v.

5. 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 today or till the disposal of the application for grant of bail whichever is earlier, no coercive action shall be taken against the applicants.

6. 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.

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