

Satya Pal Singh and anr. Vs. State of U.P. and anr.

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Court : Allahabad

Decided On : Sep-09-2010

Judge : Rajesh Dayal Khare,J.

Acts : Code of Criminal Procedure (CrPC) - Section 482; Indian Penal Code (IPC) - Sections 452, 323, 504, 506.

Appeal No. : APPLICATION U/S 482 No. - 27723 of 2010.

Appellant : Satya Pal Singh and anr.

Respondent : State of U.P. and anr.

Advocate for Pet/Ap. : Devendra Dahma, Adv.

Judgement :

1. Heard learned counsel for the applicants and the learned AGA for the State respondent. Present 482 Cr.P.C. petition has been filed for quashing the order dated 23.5.2010 and 22.7.2010, passed by Additional Chief Judicial Magistrate-I, Kanpur-Dehat, in Case No.675 of 2008, State v. Satya Pal and others, under Sections 452, 323, 504, 506 IPC, whereby non bailable warrant has been issued against the applicants.
2. It is contended by the learned counsel for the applicants that on one date, the applicants could not appear before the Court below and non bailable warrant has been issued against the applicants.

3. The contention of the learned counsel for the applicant is that no offence against the applicant is disclosed and the present prosecution has been instituted with mala fide intentions for the purposes of harassment. He pointed out certain documents and statements in support of his contentions.

4. 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 questions of fact, which cannot be adjudicated upon by this Court under Section 482 Cr. P.C.

5. At this stage only a prima facie case is to be seen in the light of the law laid down by the Supreme Court in cases of R.P. Kapur v. State of Punjab, AIR 1960 SC 866, State of Haryana v. Bhajan Lal, 1992 SCC (Cr.) 426, State of Bihar v. P.P. Sharma, 1992 SCC (Cr.) 192 and lastly Zandu Pharmaceutical Works Ltd. v. Mohd. Saraful Haq and another (Para-10) 2005 SCC (Cr.) 283.

The prayer for quashing the non bailable warrant is refused. However, it is provided that if the applicants appear and surrender before the Court below within a period of 30 days from today and apply for bail, then their prayer for bail shall be considered in view of the settled law laid down by this Court in the case of Amarawati and another v. State of U.P., reported in 2004(57) ALR-290 and by a recent decision of the Apex Court, passed in Criminal Appeal no.538 of 2009, Lal Kamlendra Pratap Singh v. State of U.P.

6. For a period of 30 days from today or till the disposal of the application for grant of bail whichever is earlier, coercive action shall not 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 disposed of.

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