

Virendra Singh. Vs. State of Uttar Pradesh (U.P.) and anr.

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Court : Allahabad

Decided On : Aug-03-2010

Judge : Rajesh Dayal Khare, J.

Acts : Indian Penal Code (IPC) - Sections 420, 467, 468, 471; Code of Criminal Procedure (CrPC) - Sections 482, 239, 227, 228

Appeal No. : APPLICATION U/S 482 No. - 947 of 1994

Appellant : Virendra Singh.

Respondent : State of Uttar Pradesh (U.P.) and anr.

Advocate for Def. : A.G.A, Adv.

Advocate for Pet/Ap. : Satya Prakash, Adv.

Judgement :

1. Heard learned counsel for the applicant and learned AGA for the State respondent.
2. The present 482 Petition has been filed for quashing of the charge sheet dated 06.02.1991 filed in case No. 641 of 1991 under sections 420, 467, 468, and 471 I.P.C. pending before the 3rd A.C.J.M., Mathura and also for quashing of the order dated 01.12.1993.

3. It is contended by learned counsel for the applicant that no such incident as alleged has taken place and the present criminal prosecution has been initiated against the applicant by the opposite party only for harassing the applicant.

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 applicant. 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 in the light of the law laid down by Supreme Court in cases of R.P. Kapur v. State of Punjab, A.I.R. 1960 S.C. 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 disputed defence of the accused cannot be considered at this stage. Moreover, the applicant has got right of discharge under Section 239 or 227/228, Cr.P.C. as the case may 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.

5. The prayer for quashing the charge sheet is refused.

6. However, it is provided that if the applicant appears and surrenders before the court below within 30 days from today and apply for bail, then his prayer for bail shall be considered in view of the settled law laid down by this Court in the case of Amrawati and another v. State of U.P. reported in 2004 (57) ALR 290. 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 applicant. However in case the applicant does not appear before the Court below within the aforesaid period, coercive action shall be taken against him. With the aforesaid directions, this application is finally disposed of.

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