
(2010) 09 AHC CK 0550

Allahabad High Court

Case No: U/S 482/378/407 No. 3644 of 2010

Mahendra Deo Tewari

APPELLANT

Vs

State of U.P. and Another

RESPONDENT

Date of Decision: Sept. 15, 2010

Acts Referred:

- Criminal Procedure Code, 1973 (CrPC) - Section 156(3), 482
- Penal Code, 1860 (IPC) - Section 419, 420, 467, 468, 471

Hon'ble Judges: Raj Mani Chauhan, J

Bench: Single Bench

Final Decision: Dismissed

Judgement

Raj Mani Chauhan, J.

Heard learned Counsel for the petitioner and learned Additional Government Advocate for the State as well as perused the documents available on record.

2. This petition u/s 482 of the Code of Criminal Procedure (hereinafter referred to as the "Code") has been filed by the petitioner with the following prayers:

It is most respectfully prayed that this Hon"ble Court may kindly be pleased to quash the charge-sheet No. 509/09, under Sections 419, 420, 467, 468, 471 IPC in Crime No. 5159/2009 which is pending in the Court of Chief Judicial Magistrate, Faizabad.

3. The submission of learned Counsel for the petitioner is that the petitioner is a practicing lawyer in the District Court, Faizabad. The allegation of the complainant against the petitioner is that he had wrongly shown his enrollment number while the accused had not knowingly recorded his enrollment number; rather it was a clerical mistake, therefore, no offence under Sections 419, 420, 467, 468, 471 IPC is made out. The charge-sheet filed by the Investigating Officer is without evidence and is liable to be quashed.

Learned A.G.A. opposed the petition.

4. Considered the submissions of learned Counsel for the petitioner and learned A.G.A. for the State. From a perusal of the application moved by the Opposite Party No. 2-Umesh Kumar Misra u/s 156(3) of the Code before the learned Chief Judicial Magistrate, Faizabad, it appears that the learned Magistrate ordered to the S.O. of concerned P.S. to register and investigate the case. Consequently the police of P.S. Kotwali Nagar, District Faizabad register a case and the Investigating Officer during the course of investigation found, prima facie, evidence in support of offence under Sections 419, 420, 467, 468, 471 IPC and submitted charge-sheet against the accused. The learned Magistrate on the basis of the said charge-sheet has summoned the accused which in my opinion does not suffer from any illegality and does not call for any interference.

The petition is devoid of any merit and is liable to be dismissed.

The petition is, therefore, dismissed.

5. However, keeping in view the facts and circumstances of the case as well as nature of offence, it is provided that in case the accused appears before the court below and moves any application for bail, the same will be heard and disposed of by the court below expeditiously preferably on the same day.

6. It is also provided that in case if the accused after his release on bail, moves any application for his discharge at the appropriate stage of trial, the same will be disposed of by the Trial Court by passing speaking and reasoned order.