
(2014) 04 AHC CK 0363

Allahabad High Court

Case No: Application U/S. 482 No. 10074 of 2014

Abrar and Others

APPELLANT

Vs

State of U.P. and
Another

RESPONDENT

Date of Decision: April 11, 2014

Acts Referred:

- Criminal Procedure Code, 1973 (CrPC) - Section 482
- Penal Code, 1860 (IPC) - Section 147, 148, 307, 323, 427

Hon'ble Judges: Rajesh Dayal Khare, J

Bench: Single Bench

Advocate: Tariq Maqbool Khan, Advocate for the Appellant

Final Decision: Disposed Off

Judgement

Rajesh Dayal Khare, J.

Heard learned counsel for the applicants and learned A.G.A. for the State. The present 482 Cr.P.C. petition has been filed for quashing the non-bailable-warrant order dated 25.03.2014 passed by learned Additional Chief Judicial Magistrate, Court No. 19, District Deoria, in Complaint Case No. 1801 of 2013 under Sections 147, 148, 323, 427, 452, 307, 504, 506 I.P.C., Police Station Baghuach Ghat District Deoria pending before learned Additional Chief Judicial Magistrate, Court no. 19, District Deoria.

2. The contention of the counsel for the applicants is that no offence against the applicants is disclosed and the present prosecution has been instituted with a malafide intention for the purposes of harassment. He pointed out certain documents and statements in support of his contention.

3. All the submission made at the bar relates to the disputed question of fact, which cannot be adjudicated upon by this Court u/s 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 Vs. The State of Punjab, , State of Haryana and others Vs. Ch. Bhajan Lal and another Shri S.A. Khan, , State of Bihar and Another Vs. P.P. Sharma, IAS and Another,](#) and lastly [Zandu Pharmaceutical Works Ltd. and Others Vs. Md. Sharaful Haque and Others,](#) . The disputed defence of the accused cannot be considered at this stage.

4. The prayer for quashing the order impugned is refused.

5. However, it is provided that if the applicants file an application for recalling of the non-bailable-warrant issued against them within 30 days from today, their application may be considered and disposed of as expeditiously as possible, in accordance with law or in case, the applicants appear and surrender before the court below within 30 days from today and apply for bail, their prayer for bail may be considered and decided in view of the settled law laid by this Court in the case of Amrawati and another Vs. State of U.P. reported in 2004(57) ALR 290 as well as judgment passed by Hon"ble Apex Court reported in 2009(3) ADJ 322 (SC) Lal Kamendra Pratap Singh Vs. State of U.P. For a period of 30 days from today or till the disposal of the application or 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.