

Court No. - 52

Case :- APPLICATION U/S 482 No. - 17506 of 2017

Applicant :- Mayank Agrawal And 2 Others

Opposite Party :- State Of U.P. And Another

Counsel for Applicant :- Devesh Kumar Shukla, Akank Kumar Jain

Counsel for Opposite Party :- G.A., Hemendra Pratap Singh

Hon'ble Rajul Bhargava, J.

Heard Sri Akank Kumar Jain, learned counsel for the applicants, Sri D.P. Singh holding brief of Sri Hemendra Pratap Singh, counsel for opposite party no. 2 and learned AGA.

The present 482 Cr.P.C., application has been filed for quashing the entire proceeding of Case No. 5428 of 2017 (State vs. Mayank Agrawal and others) u/s 498A, 323, 506 IPC and 3/4 D.P. Act, pending before the Chief Judicial Magistrate, Aligarh.

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

Per contra learned A.G.A. Submitted that 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. The submissions made by learned counsel for the applicants relate to disputed question of facts, 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 Vs. State of Punjab, A.I.R. 1960 S.C. 866, State of Haryana Vs. Bhajan Lal, 1992 SCC (Cr.) 426, State of Bihar Vs. P.P.Sharma, 1992 SCC (Cr.) 192 and lastly Zandu Pharmaceutical Works Ltd. Vs. Mohd. Saraful Haq and another (Para-10) 2005 SCC (Cr.) 283. The disputed defence of the accused cannot be considered at this stage.

The submissions made by learned A.G.A. have force.

The prayer for quashing the proceedings of the aforementioned case is refused.

However, it is directed that if the applicant nos. 2 and 3 appear and surrender before the court below within 30 days from today and apply for bail, their prayer for bail shall 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 judgement 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 applicant nos. 2 and 3 surrender and apply for bail whichever is earlier, no coercive action shall be taken against the applicant no. 2 and 3. However, in case, the applicant nos. 2 and 3 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.

Order Date :- 19.1.2018

Dhirendra/