

Court No. - 48

Case :- APPLICATION U/S 482 No. - 42933 of 2017

Applicant :- Dev Narayan

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

Counsel for Applicant :- Vijay Kumar Dubey

Counsel for Opposite Party :- G.A.

Hon'ble Karuna Nand Bajpayee,J.

This application u/s 482 Cr.P.C. has been filed seeking the quashing of charge sheet dated 12.5.2017 and cognizance order dated 07.11.2017 as well as the entire proceedings of Case No.5316 of 2017 (State vs. Dev Narayan) arising out of Case Crime No.62 of 2017, u/s 3/7 of Essential Commodities Act, P.S.-Kotwali Bakhira, District-Sant Kabir Nagar, pending in the Court of Chief Judicial Magistrate, Sant Kabir Nagar.

Heard applicant's counsel and learned AGA.

Entire record has been perused.

All the contentions raised by the applicant's counsel relate to disputed questions of fact. The court has also been called upon to adjudge the testimonial worth of prosecution evidence and evaluate the same on the basis of various intricacies of factual details which have been touched upon by the learned counsel. The veracity and credibility of material furnished on behalf of the prosecution has been questioned and false implication has been pleaded.

The law regarding sufficiency of material which may justify the summoning of accused and also the court's decision to proceed against him in a given case is well settled. The court has to eschew itself from embarking upon a roving enquiry into the last details of the case. It is also not advisable to adjudge whether the case shall ultimately end in conviction or not. Only a prima facie satisfaction of the court about the existence of sufficient ground to proceed in the matter is required.

Through a catena of decisions given by Hon'ble Apex Court this legal aspect has been expatiated upon at length and the law that has evolved over a period of several decades is too well settled. The cases of (1) ***Chandra Deo Singh Vs. Prokash Chandra Bose AIR 1963 SC 1430***, (2) ***Vadilal Panchal Vs. Dattatraya Dulaji Ghadigaonker AIR 1960 SC 1113*** and (3) ***Smt. Nagawwa Vs. Veeranna Shivalingappa Konjalgi 1976 3 SCC 736*** may be usefully referred to in this regard.

The Apex Court decisions given in the case of **R.P. Kapur Vs. State of Punjab AIR 1960 SC 866** and in the case of **State of Haryana Vs. Bhajan Lal 1992 SCC(Cr.) 426** have also recognized certain categories by way of illustration which may justify the quashing of a complaint or charge sheet. Some of them are akin to the illustrative examples given in the above referred case of ***Smt. Nagawwa Vs. Veeranna Shivalingappa Konjalgi 1976 3 SCC 736***. The cases where the allegations made against the accused or the evidence collected by the Investigating Officer do not constitute any offence or where the allegations are absurd or extremely improbable impossible to believe or where prosecution is legally barred or

where criminal proceeding is malicious and malafide instituted with ulterior motive of grudge and vengeance alone may be the fit cases for the High Court in which the criminal proceedings may be quashed. Hon'ble Apex Court in Bhajan Lal's case has recognized certain categories in which Section-482 of Cr.P.C. or Article-226 of the Constitution may be successfully invoked.

Illumined by the case law referred to herein above, this Court has adverted to the entire record of the case.

The submissions made by the applicants' learned counsel call for adjudication on pure questions of fact which may be adequately adjudicated upon only by the trial court and while doing so even the submissions made on points of law can also be more appropriately gone into by the trial court in this case. This Court does not deem it proper, and therefore cannot be persuaded to have a pre-trial before the actual trial begins. A threadbare discussion of various facts and circumstances, as they emerge from the allegations made against the accused, is being purposely avoided by the Court for the reason, lest the same might cause any prejudice to either side during trial. But it shall suffice to observe that the perusal of the F.I.R. and the material collected by the Investigating Officer on the basis of which the charge sheet has been submitted makes out a prima facie case against the accused at this stage and there appear to be sufficient ground for proceeding against the accused. I do not find any justification to quash the charge sheet or the proceedings against the applicants arising out of them as the case does not fall in any of the categories recognized by the Apex Court which may justify their quashing.

The prayer for quashing the same is refused as I do not see any abuse of the court's process either.

However, in the peculiar facts and circumstances of the case, it may be observed that in case the bail has not been obtained as yet, the accused may appear before the court below and apply for bail within two months from today, the same shall be considered and decided expeditiously in accordance with law.

No coercive measures shall be taken or given effect to in the aforesaid period or till the date of appearance of the accused in the court below, whichever is earlier.

It is clarified that this order has been passed only with regard to the accused on behalf of whom this application u/s 482 Cr.P.C. has been moved in this Court.

With the aforesaid observations this application is finally disposed off.

Order Date :- 22.12.2017

M. Kumar