

Court No. - 49

Case :- APPLICATION U/S 482 No. - 14823 of 2018

Applicant :- Vipin And Another

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

Counsel for Applicant :- Amit Rana

Counsel for Opposite Party :- G.A.

Hon'ble Saumitra Dayal Singh,J.

Heard learned counsel for the applicants and learned A.G.A. for the State.

This application under Section 482 Cr.P.C. has been filed to quash the charge sheet in Case No. 160 of 2018, arising out of Case Crime No. 23 of 2016, under Sections 323, 324, 325, 452, 504, 506 I.P.C., Police Station-Jani, District- Meerut, pending before the Addl. Chief Judicial Magistrate Court No.7, Meerut.

Learned counsel for the applicants submits that earlier an NCR had been lodged, subsequently it was converted to FIR. Also, it is noted that earlier the applicants had filed an application for surrender, the said application came to be rejected in their absence. In that order an observation had been made that the applicants are not wanted in any criminal case. However, such order appears to have passed before evidence surfaced against the applicants. In view of the facts, at present, it is existing on record against the applicants, learned counsel for the applicants submits that the allegations have been made occasioned by political rivalry, cannot examine any further in view of serious nature of injury and other statements that have been recorded, it would require examination of facts and evidence, such exercise cannot be done in the present proceedings.

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 at this stage. All the submissions made at the bar, relate to the disputed questions 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 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 prayer for quashing the entire proceeding of the aforesaid case is refused.

However, in view of the entirety of facts and circumstances of the case, it is directed that in case the applicants appear and surrender before the court below within 30 days and no more 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 Kamlendra Pratap Singh Vs. State of U.P.***

With the aforesaid directions, this application is finally ***disposed of.***

Order Date :- 30.4.2018/Lbm/-