

Court No. - 7

Case :- APPLICATION U/S 482 No. - 11931 of 2019

Applicant :- Gaurav Kumar Yadav And 5 Others

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

Counsel for Applicant :- Shweta Pandey, Punita Pandey

Counsel for Opposite Party :- G.A.

Hon'ble Raj Beer Singh, J.

Heard Smt. Shweta Pandey, learned counsel for the applicants, Sri R.L. Dwivedi, learned A.G.A. for the State and perused the record.

This application under Section 482 Cr.P.C. has been filed for quashing the proceeding of Criminal Case No. 13773 of 2018, arising out of Case Crime No. 165 of 2018 (State vs. Gaurav Kumar Yadav and others) under Sections 147, 323, 427 and 506 of IPC, Police Station Marhra, District Etah, pending before the C.J.M, Etah.

The contention of learned 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.

Learned A.G.A. has opposed the application.

The matter requires appreciation of evidence and adjudication of questions of fact, which is not permissible under the jurisdiction of Section 482 Cr.P.C. The prayer of quashing of the proceedings, as made above, is hereby refused.

However, after hearing learned counsel for the applicants and learned A.G.A. for the State, this application is finally disposed off with a direction that if the applicants appear and surrender before the court below within 45 days from today and apply for bail, their prayer for bail shall be considered and decided expeditiously 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.** For a period of 45 days from today or till the applicants surrender and apply for bail, whichever is earlier, no coercive action shall be taken against the applicants. However, in case, the applicants do not appear before the Courts below within the aforesaid period, coercive action shall be taken against them.

Order Date :- 30.3.2019

A. Tripathi