

Court No. - 79

Case :- APPLICATION U/S 482 No. - 42991 of 2019

Applicant :- Hasan Sharma And 3 Others

Opposite Party :- State of U.P. and Another

Counsel for Applicant :- V.K. Agnihotri

Counsel for Opposite Party :- G.A.

Hon'ble Ajit Singh,J.

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

The present 482 Cr.P.C. application has been filed to quash-set-aside the order dated 25.09.2019 passed by Additional Sessions Judge, Court No.1, Agra, by which rejecting the discharge application of the applicants as Paper No.28Ba under Section 227 Cr.P.C. and framing charges against them in S.T.No.399 of 2017 (State Vs. Hasan Sharma and others), arising out of Case Crime No.236 of 2015, under Sections 323/34, 325/34, 504, 307/34 I.P.C., P.S. Bah, District Agra, pending in the court of Additional Session judge, Court No.01, Agra.

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 purpose of causing harassment. He pointed out certain documents and statements in support of his contention.

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 **15 days** from today and applies 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 **15 days** from today or till applicants surrender and apply for bail, whichever is earlier, no coercive action shall be taken against applicants. However, in case, applicants does 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 :- 29.11.2019 R./