

Court No. - 89

Case :- APPLICATION U/S 482 No. - 1974 of 2021

Applicant :- Sameer @ Muswa And 3 Otrhers

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

Counsel for Applicant :- Rakesh Kumar Tiwari,Pankaj Singh

Counsel for Opposite Party :- G.A.

Hon'ble Rajeev Misra,J.

Heard Mr. R.K. Tiwari, learned counsel for applicants and learned AGA for State.

This application under section 482 Cr.PC has been filed challenging entire proceedings of Case No. Nil of 2019 (State Vs. Sameer @ Muswa and Others) arising out of Case Crime No. 19 of 2019, under sections 387, 504, 506 IPC, Police Station Pahari, District- Chitrakoot pending in the Court of Civil Judge/Additional Chief Judicial Magistrate, Chitrakoot including the charge-sheet dated 27.4.2019.

Learned counsel for applicant contends that no offence against the applicant is disclosed and the present prosecution has been instituted with a malafide intention for the purpose of harassment. He pointed out certain documents and statements in support of aforesaid contention.

From perusal of 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 applicant. All the submissions made at the Bar relate to the disputed defence of the applicant, which cannot be adjudicated upon by this Court in exercise of its jurisdiction under section 482 Cr.PC. At this stage only prime facie case is to be seen in the light of law laid down by Supreme Court in **R.P. Kapur v. State of Punjab, AIR 1960 SC 866, State of Haryana v. Bhajan Lal, 1992 SCC (Cr.) 426, State of Bihar v. P.P.Sharma, 1992 SCC (Cr.) 192 and lastly Zandu Pharmaceutical Works Ltd. v. Mohd. Saraful Haq and another (Para-10) 2005 SCC (Cr.)283.**

Accordingly prayer for quashing proceedings of aforesaid case pending before the court concerned is refused.

However, it is provided that if the applicant appears and surrenders before the court below within 30 days from today and applies for bail court below shall consider and decide the bail application of applicant as per law laid by this Court in the case of **Smt. Amarawati and another v. State of U.P.,**

reported in 2004 (57)ALR 290 and Brahm Singh and Ors. Vs. State of U.P. and Others, reported in 2016 (7) ADJ 151, Lal Kamendra Pratap Singh v. State of Uttar Pradesh and others, reported in (2009) 3 ADJ 322 (SC).

For a period of 30 days from today or till disposal of the application for bail whichever is earlier, no coercive action shall be taken against applicant.

However, in case, applicant does not appear before the court below within the aforesaid period, Court below shall be free to proceed against applicant.

With the above directions, present application is disposed of.

Order Date :- 29.1.2021

Arshad