

Court No. - 81

Case :- APPLICATION U/S 482 No. - 11305 of 2021

Applicant :- Daroga @ Sanjeev And 3 Others

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

Counsel for Applicant :- Suresh Chandra Verma, Devesh Kumar Verma

Counsel for Opposite Party :- G.A.

Hon'ble Shamim Ahmed, J.

Heard learned counsel for the applicants as well as learned A.G.A. for the State and perused the record.

The present application under Section 482 Cr.P.C. has been filed for quashing the charge sheet dated 25.03.2020 in which learned Special Judge (SC/ST Act) had taken cognizance against the applicants under Sections 323, 325, 504, 506, 452 I.P.C. and 3(1)(da) and 3(1)(dha) of S.C. & S.T. (Prevention of Atrocities) Act, 1989 as well as entire criminal proceedings of Criminal Case No. 227 of 2020 (State Vs. Daroga & Ors.;;) arising out of Case Crime No. 348 of 2020, Police Station Kotwali Farrukhabad, District Farrukhabad, pending in the Court of learned Special Judge (S.C./S.T. Act), Farrukhabad.

The contention of the learned counsel for the applicants is that no offence against the applicants are disclosed and the present prosecution has been instituted with a malafide intention for the purposes of harassment.

Per contra, the learned A.G.A. has contended that from the allegations made in the FIR prima facie offence is made out against the applicants. The innocence of the applicants cannot be adjudged at the pre trial stage. Therefore, the applicants do not deserve any indulgence.

From the perusal of the materials on record and looking into the facts of the case and after considering the arguments made at the bar, it does not appear that no offence has been made out against the applicants.

At the stage of issuing process the court below is not expected to examine and assess in detail the material placed on record, only this has to be seen whether prima facie cognizable offence is disclosed or not. The Apex Court has also laid down the guidelines where the criminal proceedings could be interfered and quashed in exercise of its power by the High Court in the following cases:-(i) ***R.P. Kapoor Vs. State of Punjab, AIR***

1960 S.C. 866, (ii) State of Haryana Vs. Bhajanlal, 1992 SCC (Crl.)426, (iii) State of Bihar Vs. P.P. Sharma, 1992 SCC (Crl.)192 and (iv) Zandu Pharmaceutical Works Ltd. Vs. Mohd. Saraful Haq and another, (Para-10) 2005 SCC (Cri.) 283.

From the aforesaid decisions the Apex Court has settled the legal position for quashing of the proceedings at the initial stage. The test to be applied by the court is to whether uncontroverted allegation as made prima facie establishes the offence and the chances of ultimate conviction is bleak and no useful purpose is likely to be served by allowing criminal proceedings to be continue. In **S.W. Palankattkar & others Vs. State of Bihar, 2002 (44) ACC 168**, it has been held by the Hon'ble Apex Court that quashing of the criminal proceedings is an exception than a rule. The inherent powers of the High Court under Section 482 Cr.P.C itself envisages three circumstances under which the inherent jurisdiction may be exercised:-(i) to give effect an order under the Code, (ii) to prevent abuse of the process of the court ; (iii) to otherwise secure the ends of justice. The power of High Court is very wide but should be exercised very cautiously to do real and substantial justice for which the court alone exists.

The High Court would not embark upon an inquiry as it is the function of the Trial Judge/Court. The interference at the threshold of quashing of the criminal proceedings in case in hand cannot be said to be exceptional as it discloses prima facie commission of an offence. In the result, the prayer for quashing of the charge sheet as well as entire criminal proceedings is refused. There is no merit in this application filed under Section 482 Cr.P.C. The applicants have ample opportunity to raise all the objections at the appropriate stage.

However, the applicants are directed to appear and surrender before the court below and apply for bail within a period of thirty days from today, the prayer for bail shall be considered expeditiously in accordance with law after hearing the Public Prosecutor.

In case the applicants fail to surrender within the stipulated period, the court below shall proceed in accordance with law.

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

The party shall file computer generated copy of such order downloaded from the official website of High Court Allahabad or certified copy issued from the Registry of the High Court,

Allahabad.

The concerned Court/Authority/Official shall verify the authenticity of such computerized copy of the order from the official website of High Court Allahabad and shall make a declaration of such verification in writing.

Order Date :- 30.7.2021

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