

Allahabad High Court

Ram Kishor And Others vs State Of U.P. & Another on 26 July, 2010

Court No. - 54

Case :- APPLICATION U/S 482 No. - 23885 of 2010

Petitioner :- Ram Kishor And Others

Respondent :- State Of U.P. & Another

Petitioner Counsel :- Dharendra Ku. Srivastava

Respondent Counsel :- Govt. Advocate

Hon'ble Vinod Prasad, J.

Heard learned counsel for the applicants, learned A.G.A., as well as Sri Mohd. Naushad Siddiqui appearing on behalf of O.P. no. 2.

Learned counsel for the applicants contended that Magistrate committed a glaring defect by exercising power both under section 190(1)(a), as well as 190(1)(b) Cr.P.C. Once the Magistrate registered the protest petition as complaint case, he had no statutory authority to revert back to the material contained in the case diary and summoned the applicants. Learned counsel for the applicant submitted that once the case was registered as a complaint case, without recording statements under sections 200 and 202 Cr.P.C. the applicants could not have been summoned.

Learned AGA as well as respondent No. 2 may file counter affidavit within three weeks. Applicants will have the same time thereafter to file rejoinder affidavit.

List in the week commencing 27th September 2010.

Till the next date of listing, further proceedings of the aforesaid Criminal case no. 344 of 2010, under Sections 323, 504, 506 I.P.C. and section 3(1)(X) SC/ST Act, P.S. Chakia, District Chandauli shall remain stayed against the applicants.

Order Date :- 26.7.2010 F.H.