

Allahabad High Court

Riyaz @ Guddu & Ors. vs State Of U.P. & Others on 4 February, 2010

Court No. - 54

Case :- APPLICATION U/S 482 No. - 3578 of 2010

Petitioner :- Riyaz @ Guddu & Ors.

Respondent :- State Of U.P. & Others

Petitioner Counsel :- C.S. Agnihotri

Respondent Counsel :- Govt. Advocate

Hon'ble Ravindra Singh,J.

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

This application has been filed against the order dated 12.1.2010 passed by the Additional Chief Judicial Magistrate, Court No. 1 Fatehgarh, Farrukhabad by which the application under section 156(3) Cr.P.C. has been allowed and the officer in charge of the Police Station concerned has been directed to register a case and investigate the same.

It is contended by the learned counsel for the applicant that the impugned order is illegal, it has not been passed in accordance with the provisions of law.

It has been rebutted by the learned A.G.A. by submitting that there is no illegality in the impugned order because on the basis of the allegations made in the application under section 156(3) Cr.P.C. a prima facie cognizable offence is made out and the allegations are of such nature which requires investigation. There is no illegality in the impugned order.

Considering the submissions made by the learned counsel for the applicants and the learned A.G.A. and from the perusal of the application under section 156(3) Cr.P.C., it appears that on the basis of the allegation made therein a prima facie cognizable offence is made out and the allegations are of such a nature which requires investigation, the investigation is not suffering from any illegality or irregularity, therefore, the prayer for quashing the impugned order is refused.

It is further contended that the applicants are men of peace loving. They shall cooperate with the investigation. In case, they are arrested and sent to jail during investigation, they shall suffer irreparable loss. Therefore, they may not be arrested during investigation.

Considering the facts, circumstances of the case and the submissions made by the learned counsel for the applicants and the learned A.G.A, it is directed that in case the F.I.R. has not been registered till today, if it is lodged subsequently, in pursuance to the impugned order, the applicants shall not be arrested during investigation of the case, but the applicants shall cooperate with the investigation.

With the above direction, this application is finally disposed of.

Order Date :- 4.2.2010 N.A.