

Allahabad High Court

Shiv Shankar Lal Vaish vs State Of U.P. & Another on 19 January, 2010

Criminal Miscellaneous Case No. 169 of 2010

Shiv Shankar Lal Vaish
S/o Late Babu Ram Vaish
R/o Village Baniyamau,
Police Station Macharehta,
District Sitapur, presently Resident of C/O A.K. Kapoor,
H.N.M.M.S. 1/88 Sector Aliganj, District Lucknow

Versus

State of U.P. and another

Hon'ble Alok K. Singh, J.

Heard the learned counsel for the petitioner and learned A.G.A. who has put in appearance on behalf of opposite party no.1.

At this stage notice in respect of opposite party no. 2 is dispensed with. The application under Section 482 Cr.P.C. has been filed for quashing the impugned summoning order dated 02.07.2009 arising out of Case No.2038 of 2009, under Sections 420, 467, 468, 406 I.P.C., Police Station Wazirganj, District Lucknow and the orders dated 04.01.2010.

The charge-sheet has been filed on the basis of the accusation made in the F.I.R. and the evidence collected during investigation including the statements under Section 161 Cr.P.C. The other averments are factual in nature that cannot be adjudicated in the present application. There does not appear to be any sufficient cogent ground for quashing of the entire proceedings.

Learned counsel for the petitioner, however, submits that the offences are triable by Magistrate and not so grave and the petitioner being law abiding citizen intends to participate in the proceedings after seeking bail.

Without entering into the merits of the case in view of the aforesaid facts and circumstances, it is directed that if the applicant appears before the court concerned and applies for bail within one month from today, both the courts below shall dispose of the application expeditiously, if possible, on same day in accordance with the Full Bench decision of this Court Srimati Amrawati and another Vs. State of U.P. 2004 CBC page 705 and Lal Kamendra Pratap Singh Versus State of U.P. reported in 2009 (1) JIC 677 & 2009 (2) Crimes 4 (SC). Thereafter, the trial court may permit the applicant to appear through counsel and raise his objection, if any, against the initiation of trial proceedings against him at the stage of framing of charges. This relief is being granted up to the stage of framing of charges only provided the applicant after securing bail (1) furnishes an undertaking to the satisfaction of the trial court that his counsel will remain present on his behalf and will represent him on each and every date, (2) he will not raise any objection as to the actual presence of the person who is facing trial, (3) an undertaking will also be given to the effect that he will be present before the court whenever called upon to do so at any stage. These directions are being accorded in

the light of the observations made by Hon'ble Apex Court in the cases of M/s Bhaskar Industries Ltd. Vs. Bhiwani Denim and Apparels Limited reported in 2001 Cri. Law Journal page 4250.

Till the aforesaid period of one month, bailable/non-bailable warrant, if any, shall be kept in abeyance.

With these observations this application under Section 482 Cr.P.C. is finally disposed of. 19.01.2010
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