

Allahabad High Court

Nirmal Chand Mittal And Another vs State Of U.P. on 21 January, 2010

Court No. - 54

Case :- APPLICATION U/S 482 No. - 1611 of 2010

Petitioner :- Nirmal Chand Mittal And Another

Respondent :- State Of U.P.

Petitioner Counsel :- Sanjay Mishra

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 by the applicants Nirmal Chand Mittal and another against the order dated 16.12.2009 passed by A.C.J.M. Court No. 1, Aligarh in case No. Nil of 2009 whereby the application under section 156(3) has been allowed and the Officer Incharge of the police station concerned has been directed to register the case and investigate the same in exercise of powers conferred under section 156(3) Cr.P.C.

It is contended by the learned counsel for the applicants 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 impugned order 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, the applicants are arrested and sent to jail during investigation, the applicants shall suffer irreparable loss. Therefore, the applicants 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 FIR 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 this direction this application is finally disposed of. Order Date :- 21.1.2010 RPD