

Manoj Chaurasiya @ Mahendra Kumar vs Tate Of U.P. And Another on 4 January, 2024

HIGH COURT OF JUDICATURE AT ALLAHABAD

?Neutral Citation No. - 2024:AHC:2872

Court No. - 91

Case :- APPLICATION U/S 482 No. - 40617 of 2023

Applicant :- Manoj Chaurasiya @ Mahendra Kumar

Opposite Party :- Tate Of U.P. And Another

Counsel for Applicant :- Padmaker Pandey

Counsel for Opposite Party :- G.A.

Hon'ble Mayank Kumar Jain,J.

The present application under Section 482 Cr.P.C. has been filed for quashing the summoning order dated 27.09.2021 passed by Special Judge (Food Safety and Standard Act)/ADJ Court No.17, Kanpur Nagar as well as entire proceedings of Sessions Case No.1299 of 2021 (State of U.P. Vs. Manoj Chaurasiya @ Mahendra Kumar) under Sections 58, 59(iii) of Food Safety and Standard Act, 2006, Police Station Nawabganj, District Kanpur Nagar.

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

The contention of the learned counsel for the applicant is that applicant is innocent and has been falsely implicated in this case. It is submitted that on the day when complaint was filed by the opposite party no.2 the Court has taken cognizance while under Section 46(4) of Food Safety Standard Act the applicant has right to file an appeal. The complaint was filed on 27.09.2021 and on the same day the cognizance was taken. The applicant has not received any summon pursuant to

summoning order dated 27.09.2021. Considering entire allegations no prima-facie case is made out against applicant.

Per-contra, learned AGA opposed the prayer and submitted that the applicant was selling Pan Masala and other chewing articles in loose form during the Covid-19 period while it was prohibited at that time. The inspection report was prepared in the presence of applicant. He further submitted that from the perusal of the material on record and looking into the facts of the case at this stage, it cannot be said that no offence is made out against the applicant.

From the perusal of the material on record and looking into the facts of the case at this stage, it cannot be said that no offence is made out against the applicant. The submissions made by learned counsel for the applicant relate to the disputed questions of fact, which cannot be adjudicated upon by this Court under Section 482 Cr.P.C. At this stage, only prima facie case is to be seen in the light of the law laid down by Supreme Court in cases of R.P. Kapur Vs. State of Punjab, A.I.R. 1960 S.C. 866, State of Haryana Vs. Bhajan Lal, 1992 SCC (Cr.) 426, State of Bihar Vs. P.P.Sharma, 1992 SCC (Cr.) 192 and lastly Zandu Pharmaceutical Works Ltd. Vs. Mohd. Saraful Haq and another (Para-10) 2005 SCC (Cr.) 283. The disputed defence of the accused cannot be considered at this stage. Moreover, the applicant has got a right of discharge through a proper application for the said purpose and he is free to take all the submissions in the said discharge application before the trial Court.

The prayer as made above is hereby refused.

However, keeping in view the facts of matter, it is directed that in case the applicant moves an appropriate application for discharge within 45 days from today, the same shall be decided expeditiously in accordance with law. For a period of 45 days from today or till the disposal of discharge application, whichever is earlier, no coercive process shall be taken against applicant.

The application is disposed of accordingly.

Order Date :- 4.1.2024 Mohit