

# **Ravikant Shukla vs State Of U.P. And Another on 5 July, 2022**

**Author: Manju Rani Chauhan**

**Bench: Manju Rani Chauhan**

HIGH COURT OF JUDICATURE AT ALLAHABAD

?Court No. - 81

Case :- APPLICATION U/S 482 No. - 2394 of 2022

Applicant :- Ravikant Shukla

Opposite Party :- State of U.P. and Another

Counsel for Applicant :- Ramendra Pal Singh, Veerendra Kumar Shukla

Counsel for Opposite Party :- G.A.

Hon'ble Mrs. Manju Rani Chauhan, J.

Heard Mr. Veerendra Kumar Shukla, learned counsel for the applicant and learned A.G.A. for the State as well as perused the entire material available on record.

The present 482 Cr.P.C. application has been filed by the applicant to quash the summoning order dated 18.02.2021 passed by Metropolitan Magistrate Court No.1, Kanpur Nagar as well as the entire proceedings of Case No.22165 of 2021 (State Vs. Ravikant Shukla), under Section 59(1) of the Food Safety and Standards Act 2006, Police Station- Kakadev, District-Kanpur, pending in the Court of Metropolitan Magistrate, Court no.1 Kanpur Nagar.

Learned counsel for the applicant submits that on 23.06.2019 when the opposite party inspected the said Bhojnalaya at 2:00 P.M. along with Food Safety Officer as well as other members of the department, they took a sample of Red Chilli Powder of 150 gms. At the time when the inspection was done, the applicant was present in the restaurant and had no concern with the restaurant, as the

same belonged to one Balram Singh Bhadauriya. The concerned officers caught hold of the applicant and forcibly made him witness in the said case taking signatures on blank paper. The sample as collected by the concerned team was sent for test on 24.06.2019 and the report regarding the same was received on 10.07.2019 but the present case has been lodged by the concerned officer on 17.02.2021 after the delay about 1 and 1/2 year. Learned counsel for the applicant submits that the owner of the restaurant has already been released on bail and while moving an application before the Court concerned the owner Mr. Bhadauriya has mentioned that the applicant has no concern with the restaurant which is being run by him. He further submits that Court below without considering the aforesaid facts has summoned the applicant in mechanical manner, therefore, the order of summoning is bad in the eyes of law and the same may be quashed.

Learned A.G.A. submits that the applicant has not placed any documents to show that he has no concern with the restaurant and he was found at the restaurant at the time of inspection made by the concerned team and when asked, produced all papers related to the restaurant, therefore, there is no illegality in the proceedings which have been drawn against him.

I have considered the submissions made by the learned counsel for the parties and have gone through the records of the present application.

This Court finds that the submissions made by applicant's counsel call for adjudication on pure questions of fact, which may adequately be adjudicated upon only by the trial court and while doing so even the submissions made on points of law can also be more appropriately gone into by the trial court in this case. The issue whether it is appropriate for this Court being the Highest Court to exercise its jurisdiction under Section 482 Cr.P.C. to quash the charge-sheet and the proceedings at the stage when the Magistrate has merely issued process against the applicant and trial is to yet to come only on the submission made by the learned counsel for the applicant that present criminal case initiated by opposite party no.2 are not only malicious but also abuse of process of law has elaborately been discussed by the Apex Court in the following judgments:-

- (i) R.P. Kapur Versus State of Punjab; AIR 1960 SC 866,
- (ii) State of Haryana & Ors. Versus Ch. Bhajan Lal & Ors.; 1992 Supp.(1) SCC 335,
- (iii) State of Bihar & Anr. Versus P.P. Sharma & Anr.; 1992 Supp (1) SCC 222,
- (iv) Zandu Pharmaceuticals Works Ltd. & Ors. Versus Mohammad Shariful Haque & Anr.; 2005 (1) SCC 122,
- (v) M. N. Ojha Vs. Alok Kumar Srivastava; 2009 (9) SCC 682,
- (vi) Mohd. Allauddin Khan Vs. The State of Bihar & Others; 2019 0 Supreme (SC) 454,

(vii) Nallapareddy Sridhar Reddy Vs. The State of Andhra Pradesh & Ors.; 2020 o Supreme (SC) 45, and laslty

(ix) Rajeev Kaurav Vs. Balasahab & Others; 2020 o Supreme (SC) 143.

7. In view of the aforesaid, this Court does not deem it proper, and therefore cannot be persuaded to have a pre-trial before the actual trial begins. A threadbare discussion of various facts and circumstances, as they emerge from the allegations made against the accused, is being purposely avoided by the Court for the reason, lest the same might cause any prejudice to either side during trial. But it shall suffice to observe that the perusal of the F.I.R. and the material collected by the Investigating Officer on the basis of which the charge sheet has been submitted makes out a prima facie case against the accused at this stage and there appear to be sufficient ground for proceeding against the accused. I do not find any justification to quash the charge sheet or the proceedings against the applicant arising out of them as the case does not fall in any of the categories recognized by the Apex Court which may justify their quashing.

The prayer for quashing the impugned charge-sheet and cognizance order as well as the entire proceedings of the aforesaid case are refused, as I do not see any abuse of the court's process at this pre-trial stage.

However, it is provided that if the applicant moves an application for discharge before the concerned Court below within one week from today along with a certified copy of this order, the same shall be considered and decided in accordance with law by means of a reasoned and speaking order, preferably within a period of two months from the date of making discharge application.

For a period of two months or till the decision on the discharge application, whichever is earlier, no coercive action shall be taken against the applicant.

With the aforesaid directions, this application is finally disposed of.

Order Date :- 5.7.2022 Rahul.