

**Court No. - 70**

**Case :-** APPLICATION U/S 482 No. - 6309 of 2023

**Applicant :-** Subash And 3 Others

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

**Counsel for Applicant :-** Yashwant Pratap Singh

**Counsel for Opposite Party :-** G.A.

**Hon'ble Shekhar Kumar Yadav,J.**

Heard learned counsel for the applicants, learned A.G.A. for the State and perused the material available on record.

This application under Section 482 Cr.P.C. has been filed by applicants to quash the charge sheet dated 01.09.2021 as well as cognizance order dated 12.10.2022 in Criminal Case No. 9512 of 2022 (State of Subash and others) arising out of Case Crime No.0164 of 2021, under Sections- 325, 323, 504, 308 I.P.C., Police Station- Kothibhar, District- Maharajganj, pending in the court of Civil Judge (J.D.)/Judicial Magistrate, Maharajganj with a further prayer to stay the proceedings of the aforesaid case.

The contention of the learned counsel for the applicants is that no offence against the applicants is disclosed and the present prosecution has been instituted with malafide intentions for the purposes of harassment.

From the perusal of 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 applicants. All the submissions made at the bar relates to the disputed question 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 applicants have got a right of discharge and they are free to take all the submissions in the said discharge application before the trial court.

The prayer for quashing the proceedings of case and charge sheet as well as summoning order are refused.

At this stage, learned counsel for the applicants submitted that directions may be given to the court below to consider the bail application of the applicants in view of the judgment in the case **Satendra Kumar Antil vs. Central Bureau of Investigation and another, 2021 SCC Online SC 922.**

In the case of Satendra Kumar Antil (supra), the Hon'ble Supreme Court laid down the guidelines for deciding of the bail application. For that purpose, the cases have been divided under four categories. The Hon'ble Supreme Court has observed that the trial courts and the High Courts will keep in mind the aforesaid guidelines, while considering the bail application. This Court has no doubt, that as and when, the applicants approach the trial court for bail through counsel, same shall be heard and disposed of expeditiously by the court below in view of the settled law laid by this Court in the case of **Satendra Kumar Antil (supra).**

In view of the aforesaid, the present application stands disposed of.

**Order Date :- 16.3.2023**  
Krishna\*