

Court No. - 29

Case :- APPLICATION U/S 482 No. - 2603 of 2024

Applicant :- Kaloo And 3 Others

Opposite Party :- State Of U.P. Thru. Prin. Secy. Home Lko. And Another

Counsel for Applicant :- Vivek Kumar Pandey, Neeraj Kumar Baghel

Counsel for Opposite Party :- G.A.

Hon'ble Ajay Bhanot, J.

Heard Shri Vivek Kumar Pandey, learned counsel for the applicants and Shri S. P. Tiwari, learned A.G.A. for the State.

Shri S. P. Tiwari, learned A.G.A. contends that the applicants and other co-accused persons brutally assaulted the victims and inflicted grievous injuries. They assaulted with intent to kill the victims. Prima facie offence of intent of attempting to commit murder is disclosed from the perusal of the F.I.R. and the materials in the record. The applicants have not come with clean hands, inasmuch as, the F.I.R. was lodged on 10.09.2017 and the applicants have been clearly absconding. They have approached this Court in the year 2024. The applicants were absconders and deserve no relief from this Court.

Faced with this Shri Vivek Kumar Pandey, learned counsel for the applicants contends that they do not wish to press the prayer sought in the application. They recast their relief and submit that the applicants seek to invoke their alternative remedy before the learned trial

court.

It is always open to the applicants to avail remedies available to them as per law before the learned trial court.

However, this Court would like to observe that the learned trial court shall not be guided by the fact that the F.I.R. was lodged under Section 308 IPC alone. The learned trial court shall consider ingredients of the offence as per the material in the record.

The judgement of the Supreme Court in **Satendra Kumar Antil Vs. Central Bureau of Investigation and another**, rendered in **Special Leave to Appeal (Crl.) No.5191 of 2021**, at times is being incorrectly interpreted by the trial courts. The trial courts are not liable to be guided by the sections mentioned in the F.I.R. but have to examine the contents of the F.I.R. as well as materials in the record to determine the nature of the offence.

The Application U/S 482 is disposed of.

Order Date :- 19.3.2024

Ashish Tripathi