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Surendra Singh Vs. State of U.P. and ors.

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Court : Allahabad

Decided On : Jan-12-1998

Reported in : 1998CriLJ3367

Judge : Binod Kumar Roy and ;P.K. Jain, JJ.

Acts : Uttar Pradesh Gangsters and Anti-social Activities Prevention Act, 1986 - Sections 8(2); Constitution of India - Article 14

Appeal No. : Crl. Misc. Writ Petn. No. 35 of 1998

Appellant : Surendra Singh

Respondent : State of U.P. and ors.

Advocate for Def. : S.C.

Advocate for Pet/Ap. : V.S. Singh, Adv.

Disposition : Petition dismissed

Judgement :
ORDER

1. The Prayer of the petitioner is to quash the first information report dated 20-12-1997 registered as Crime Case No. 65 of 1997, Police Station Lahchura, District Jhansi, as contained in Annexure 3.

2. The solitary submission made by Sri. V.S. Singh learned counsel appearing in support of this petition, is that since the petitioner is already facing trial of commission of offences under the U.P. Gangsters and Anti-social Activities Prevention) Act, 1986, the impugned first information report registered under the provision of this very act for further offences was/is not permissible and that the only course left for the State is to lead evidence in regard to subsequent acts at the stage of trial of the earlier case.

3. In our view Sub-section (2) of Section 8 is Complete negation of the submission of Mr. Singh, which reads thus :-

If in the course of any trial under this Act of any offence, it is found that the accused has committed any other offence under this Act, or any rule thereunder or under any other law, the Special Court may convict such person of such other offence and pass any sentence authorised by this Act or such rule or, as the case may be, such other law, for the punishment thereof.

4. It is clear from a bare perusal of the aforementioned provision that the legislature never desired a composite trial. It merely meant that if an accused has committed any other offence under the provisions of the Act in course of any trial under the Act of any offence the Special Court may convict such person of such other offence. If the subsequent offence under the Act is, not registered, investigated, chargesheeted and the accused is not charged accordingly and straightway the trial of the subsequent offence under the Act is clubbed with that of the earlier case in that case an accused may take recourse to prejudice or to the violation of the equality Clause enshrined under Article 14 of the Constitution. We are of the view that the legislature has advisedly tried to avoid such a contingency.

5. For the reasons aforementioned this writ petition is dismissed.

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