

Manoj Kumar. Vs. State of U.P. and ors.

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Court : Allahabad

Decided On : Aug-02-2010

Judge : Imtiyaz Murtaza, Naheed Ara Moonis, JJ.

Acts : Code of Criminal Procedure (CrPC) - Sections 207, 208, 204.

Appeal No. : CRIMINAL MISC. WRIT PETITION No. - 6370 of 2010

Appellant : Manoj Kumar.

Respondent : State of U.P. and ors.

Advocate for Pet/Ap. : D.K. Srivastava, Saran Hajela, Advs.

Judgement :

1. It would appear from the record that the arrest of the petitioners was stayed by an interim order passed in this writ petition. The investigation had not been stayed. It is not known whether the investigation has been completed yet or not.
2. We have heard learned counsel for the petitioners and the learned A.G.A.
3. In the case of Mahendra Lal Das v State of Bihar 2002 SCC (Crl) 110 it has been held by the Supreme Court that while interference by Courts at investigation stage is not called for, the investigating agency cannot be given latitude of protracting the conclusion of the investigation without any limit of time.

4. No useful purpose would be served in keeping this petition pending any longer. Accordingly, we dispose of this writ petition with the following directions:

(1) The investigation will be completed within three months of the date on which a certified copy of this order is presented before the Investigating Officer or any police officer of the district to whom the investigating officer is directly subordinate;

(2) The petitioners will not be arrested during pendency and for the purpose of investigation, provided a certified copy of this order is presented before the police officer as directed above within one month from today;

(3) If certified copy is not presented within the time aforesaid the stay of arrest will not operate;

(4) If at the conclusion of the investigation a charge sheet is submitted instead of final report, it will be open to the judicial magistrate, if he decides to take cognizance, to summon the accused by summons or warrants in accordance with Section 204 Cr.P.C. after copies have been prepared for compliance with Section 207/208 Cr.P.C.

(5) If for any unavoidable reason, the investigation cannot be completed within the aforesaid time of three months, it will be open to the investigating officer to apply in this writ petition by means of a miscellaneous application for enlargement of said time of three months by giving details of the investigation conducted during the aforesaid period of three months and also giving reasons why the investigation could not be completed within the time specified above;

(6) If the charge sheet is decided to be submitted to the Court of magistrate, in column no of the prescribed form of charge sheet it will be mentioned that the accused have not been arrested on account of stay order granted by this Court;

(7) The accused will cooperate with the investigation and in case of non-cooperation or otherwise if the Investigating Officer is of the opinion that for any other valid reason the arrest of accused is necessary during or for the purpose of investigation, it will be open to the Investigating Officer to apply in this writ petition by means of a Misc. application giving details of non-cooperation as also details of

what kind of cooperation is expected by the accused for completing investigation or why the arrest is otherwise necessary so that interim stay of arrest granted hereby may be vacated. The writ petition is disposed of with the aforesaid directions.

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