

RamchandrA. Vs. State of U.P.

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Court : Allahabad

Decided On : Sep-24-2010

Judge : Bala Krishna Narayana,J.

Acts : Code of Criminal Procedure (CrPC) - Sections 482; Uttar Pradesh (U.P.) Gangsters And Antisocial Activities (Prevention) Act - 12, 2, 3.

Appeal No. : APPLICATION U/S 482 No. - 29856 of 2010.

Appellant : RamchandrA.

Respondent : State of U.P.

Advocate for Pet/Ap. : Devashish Mitra, Adv.

Judgement :

1. Heard Shri Devashish Mitra, learned counsel for the applicant and learned AGA for the State. The applicant who is facing trial for offences punishable under Sections 302, 94, 411, 201 IPC in S.T. No. 260 of 2007 pending in the Court of Additional Sessions Judge, FTC No.I V, Bareilly has invoked the inherent power of this Court under Section 482 Cr.P.C. with a prayer to quash the order dated 19.7.2010 passed by Additional Sessions Judge/FTC No4, Bareilly rejecting the application moved by him before the Court below under Section 12 of the U.P. Gangsters & Antisocial Activities (Prevention) Act (hereinafter referred to as 'Gangsters Act').

2. Learned counsel for the applicant submitted that since the applicant is facing trial for offences punishable under Section 2/3 of U.P. Gangsters Acts being Special Case No. 195 of 2007 pending before the Special Judge, Gangster Act, Bareilly, he moved an application under Section 12 of the Act before FTC No. 4, Bareilly with a prayer that the proceedings of S.T. No. 260 of 2007 be kept in abeyance till the Special Case No.195 of 2007 under Gangster Act are concluded.

3. The court below by the impugned order rejected the aforementioned application on the ground that Section 12 of the Act would come into play only in a case where precedence is not being given to a trial under the Gangsters Act.

4. Learned counsel for the application submitted that reason given in the impugned order for rejecting the application is totally untenable and vitiated by total misinterpretation of Section 12 of the Act which clearly provides that a trial for an offence under Gangsters Act by a competent court shall have precedence over the trial of another case against the accused in any other court not being a Special court and shall be concluded in preference to the trial of such other case and accordingly, the trial of such other case shall remain in abeyance. He further submitted that Session Trial No. 26 of 2007 is not being tried by a Special Court and as such proceedings of the aforesaid trial were liable to be kept in abeyance till the trial of the applicant under the Gangsters Act pending before the Special Court, Gangsters Act, Bareilly was concluded.

5. Learned AGA made his submissions in support of the impugned order. I have examined the submissions advanced by learned counsel for the parties and perused the impugned order as well as the other materials brought on record I am of the view that the submissions made by the learned counsel for the applicant have force and the same are liable to be accepted.

6. It is undisputed that Session Trial No. 260 of 2007 (State v. Ram Chandra) in which applicant is facing trial for the offences punishable under Sections 302, 394, 420, 411 IPC is not pending before a Special Court. There is also no dispute with regard to the fact that the applicant is also facing trial for offences punishable under Section 2/3 Gangster Act which is pending before the Special Judge, Gangster Act, Bareilly. Now in order to appreciate the submissions made by

learned counsel for the applicant that the proceedings of S.T. No. 260 of 2007 are liable to remain in abeyance till the Special Trial under Gangsters Act is decided, it is necessary to extract Section 12 of Gangster Act which reads as under :

" Trial by Special Courts to have precedence :- The trial under this Act of any offence by Special Court shall have precedence over the trial of any other case against the accused in any other Court not being a Special Court) and shall be concluded in preference to the trial of such other case and accordingly, the trial of such other case shall remain in abeyance."

7. From a bare reading of Section 12 of Act it is crystal clear that the trial under Gangsters Act of an offence by a Special court shall have precedence over trial of another case of the accused in any other court not being a Special Court and such trial shall be concluded in preference to the trial of such other case and trial of such other case shall remain in abeyance. The Court below while passing the impugned order has failed to appreciate the provisions of Section 12 of the Gangsters Act.

8. In this view of the matter, the impugned order dated 19.7.2010 passed by the Additional Sessions Judge, FTC No. IV, Bareilly cannot be sustained and is hereby set aside and the matter is remitted back to the Sessions Judge, for deciding the application moved by the applicant afresh in accordance with law by a speaking and reasoned order and keeping in mind the provisions of Section 12 of the Act. This necessary exercise in this regard shall be completed by the Court within a period of three months from the date of production of certified copy of this order.

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