

Arvind Kumar. Vs. State of Uttar Pradesh (U.P.) and anr.

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Court : Allahabad

Decided On : Sep-29-2010

Judge : Bala Krishna Narayana, J.

Acts : Code of Criminal Procedure (CrPC) - Section 482; Indian Penal Code (IPC) - Sections 147, 148,149,302.

Appeal No. : APPLICATION U/S 482 No. - 29977 of 2010.

Appellant : Arvind Kumar.

Respondent : State of Uttar Pradesh (U.P.) and anr.

Advocate for Pet/Ap. : Sidhir Shandilya, Adv.

Judgement :

1. Heard learned counsel for the applicant and learned AGA for the State. By means of this application under Section 482 of the Code of Criminal Procedure (in short 'the Cr.P.C.'), the applicants have invoked inherent jurisdiction of this court to quash the entire proceedings of case no. 3157 of 1990 (State v. Radha Raman & ors) under Sections 147, 148,149,302 I.P.C P.S. Madhoganj District Jalaun, pending in the court of Chief Judicial Magistrate Jalaun.

2. The first submission made by learned counsel for the applicant is that coaccused persons have been acquitted after trial and hence on the basis of the principle of Stare Decises, the applicant is liable to be acquitted of the charges

framed against him and hence the entire proceeding of the case should be quashed by this Court in its inherent jurisdiction under section 482 Cr.P.C., as no useful purpose will be served to continue the proceedings of the case against the applicant. For this submission my attention was drawn towards judgment dated 21.11.2008 passed by Addl.

3. Sessions Judge, F.T.C. I, Jalaun at Orai in Session Trial No. 99 of 2008 (Annexure IV), judgment of the same date (Annexure-V) passed by the same Court in S.T No. 197 of 2008 as well as the judgment of the same date passed by the same Court in S.T. No. 13 of 1990, whereby the co-accused, Ram Kumar, Raj Kumar, Mohar Singh and Raj Narain @ Rajesh have been acquitted in case Crime No. 58 of 1989 P.S. Madhogarh District Jalaun. The applicant Radha Raman is also accused in the said case crime and separate charge sheet has been submitted against him, on which cognizance has been taken and the applicant has been summoned to face the trial by C.J.M. Jalaun at Orai.

4. It was further submitted by learned counsel for the applicant that the witnesses which have been examined in the Session Trial of co-accused persons, have to be examined again and since those witnesses have not supported the case of the prosecution, hence no useful purpose will be served by committing the case for trial of the applicant and hence this Court can quash the proceeding of the case against the applicant exercising the power u/s 482 Cr.P.C.

5. Learned A.G.A. on the other hand contended that on the basis of the judgments passed in the Session Trials of co-accused persons, no benefit can be extended to the applicant and hence this Court cannot quash the proceedings of the case against the applicant. Having considered the submissions made by learned counsel for the parties and keeping in view the law laid down by the Hon'ble Apex Court in Rajan Rai v. State of Bihar (2006) 1 SCC (Cri) 209, benefit of the orders of acquittal of the co-accused persons cannot be extended to the applicant and hence in my opinion the proceedings of the case against the applicant can not be quashed by this Court in its inherent jurisdiction u/s 482 Cr.P.C. However, considering the facts and circumstances of the case, it is directed that if the applicant move application for appearance/surrenders before the court concerned

within 30 days from today, the court concerned shall fix date on that application for surrenders/appearance.

6. In the meantime the court concerned shall seek instruction from the prosecution side. In case, the applicant move the application for bail on the day of appearance or surrenders, the same shall be considered and disposed of expeditiously and if possible on the same day by the courts below, keeping in view the law/ guidelines laid down in Smt. Amrawati and another versus State of U.P. 2004 (57) ALR (290) (Seven Judges' Judgment of this Court) and Hon'ble Apex Court judgment in Lal Kamendra Pratap Singh vs. State of U.P. and others 2009 (3) A.D.J. 322 (SC), but having regard to the observations made by the Division Bench of this Court in Pradeep Tyagi v. State of U.P. and others 2009 (65) ACC 443 and Sheo Raj Singh @ Chhuttan v. State of U.P. and others 2009 (65) ACC 781.

7. For a period of one month from today, the operation of the impugned order dated 24.1.2010 passed by C.J.M. Jalaun at Orai in the above case shall remain suspended. With this direction, the application under section 482 Cr.P.C. is finally disposed of.

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