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* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ CRL.M.C. 2686/2010

SANTOSH KUMAR JAIN & ANR Petitioner
Through Geeta Luthra, Sr. Adv. with Mr. Jai Singh,
Advocate
versus

STATE & ORS Respondent
Through Mr Sunil Sharma, APP

CORAM:
JUSTICE SHIV NARAYAN DHINGRA

ORDER

% 19.08.2010

+Crl. M.A. No. 13949/2010

Allowed, subject to all just exceptions.

+CRL.M.C. 2686/2010 & Crl. M.A. no. 13948/2010

This petition has been made by the petitioner assailing the order dated 3rd May, 2010 passed by Revision Court whereby the learned Revision Court has observed that the order passed by the Allahabad High Court did not affect criminal prosecution already pending since 2005 and the learned MM committed illegality in declining to exercise his jurisdiction in issuing coercive process against accused persons if accused persons had stopped appearing before the Court.

In the order dated 10th April, 2009 passed by Allahabad High Court, it was observed that the petitioner shall not be arrested in criminal proceedings lodged

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against M/s Alka International Limited. Allahabad High Court did not stay any criminal trial already pending in any court neither told that petitioner that he was not to appear before the Courts where criminal proceedings were pending. However, learned MM seems to have mis-read the order and thought that coercive action cannot be taken against those disobeying the order of the Court for appearance. Learned MM therefore refused to take coercive steps. Against this order of learned MM, a revision was preferred and the learned Revision Court rightly set aside the order of learned MM based on misreading of the order of Allahabad High Court.

Counsel for the petitioner states that respondent should have obtained clarification of the order of Allahabad High Court. This argument is totally misconceived. When the order is absolutely clear, there was no reason why respondent should have obtained clarification of the order of Allahabad High Court.

I find no force in this petition. Same is dismissed.

Counsel for the petitioner states that petitioner shall appear before the court of learned MM and make application giving background of the facts and abide by the directions of learned MM. If application is moved the learned MM shall dispose of the same as per law.


SHIV NARAYAN DHINGRA, J