

Court No. - 80

Case :- CRIMINAL MISC. WRIT PETITION No. - 3069 of 2018

Petitioner :- Rajvir Singh And 4 Others

Respondent :- State Of U.P. And 6 Others

Counsel for Petitioner :- Pramod Bhardwaj

Counsel for Respondent :- G.A.,Sumit Goyal

Hon'ble Subhash Chandra Sharma,J.

Heard learned counsel for both the parties and perused the record.

It is submitted by learned counsel for the petitioners that in this case an order under Section 133 Cr.P.C. was passed by Sub Divisional Magistrate on 02.01.2018, against which a criminal revision was filed before the learned court of Session, which was registered as Criminal Revision No. 7 of 2018, that is still pending. In that criminal revision an interim order application was filed, but no any order was passed on that application, as a result present writ petition was filed before this Court. Therefore, a request has been made to direct the court below to decide the interim order application pending in the Criminal Revision No. 7 of 2018 with a further request that the effect and operation of the order passed by learned Sub Divisional Magistrate on 02.01.2018 be also stayed. It is further submitted that the order passed by learned Sub Divisional Magistrate was absurd, therefore, it be quashed by this Court while exercising writ jurisdiction.

Learned counsel for the respondents as well as learned A.G.A. opposed the prayer and contended that the legality of the order passed by learned Sub Divisional Magistrate on 02.01.2018 was challenged before the learned court of Session in criminal revision which was registered as Criminal Revision No. 7 of 2018, which is still pending and no any order was passed in that criminal revision.

The main grievance of the petitioners was that an interim order application was moved to stay the operation of the order passed by learned Sub Divisional Magistrate which was not disposed of, as a result the present writ petition was preferred. Therefore, a direction to learned revisional court is required to be given to decide the interim order application as well as the revision pending before it.

Considering the submissions made by learned counsel for the

petitioners, learned counsel for the respondents as well as learned A.G.A. and perused the record, the prayer made by learned counsel for the petitioners, the order passed by learned Sub Divisional Magistrate as well as material on record, it appears that while proceeding under Section 133 Cr.P.C. in Case No. 42 of 1987 an order was passed by learned Sub Divisional Magistrate on 02.01.2018 which was challenged before the learned court of Session in criminal revision registered as Criminal Revision No. 7 of 2018, in which an interim order application to stay the operation of order passed by learned Sub Divisional Magistrate was moved, which was pending for disposal against which this writ petition was preferred for a direction to the learned revisional court to decide the interim order application.

In view of the above, it is expedient to direct the learned court of Session to decide the interim order application in Criminal Revision No. 7 of 2018 within a period of 30 days from today and thereafter to decide the Criminal Revision No. 7 of 2018 on merit, if it is still pending, within a further period of 60 days. In case that criminal revision has been disposed of or withdrawn, the petitioners will be at liberty to avail appropriate remedy.

Till the disposal of interim order application, the interim order dated 14.03.2018 passed by this Court in the present writ petition shall continue if the aforesaid criminal revision is still pending.

With the aforesaid directions, the present petition is **disposed of** finally.

Order Date :- 17.10.2023
Sunil Kr. Gupta