

Court No. - 91

Case :- APPLICATION U/S 482 No. - 35422 of 2023

Applicant :- Constable Indrajit Prajapati

Opposite Party :- State of U.P. and Another

Counsel for Applicant :- Shiv Bahadur Singh, Rajendra Singh, Sarvagya Singh

Counsel for Opposite Party :- G.A.

Hon'ble Gajendra Kumar, J.

1. Heard learned counsel for the applicant and learned A.G.A. for the State.
2. The present 482 Cr.P.C. application has been filed to quash the order dated 25.7.2023 in Special Trial No. 242 of 2010 arising out of Case Crime No. 193 of 2009, under Section 3(1) U.P. Gangster Act, Police Station- Ram Nagar, District- Varanasi, pending before Special Judge (Gangster Act), Varanasi.
3. Learned counsel for the applicant submitted that the applicant has been challaned under Section 3(1) U.P. Gangster Act in the present criminal proceeding on the basis of a single case registered against the applicant vide Case Crime No. 106 of 2009, under Sections 394, 504, 411 IPC. He further submitted that the trial court vide judgement and order dated 09.02.2023 has acquitted the applicant in Case Crime No. 106 of 2009.
4. He next submitted that the said order of acquittal has become final as no appeal has been filed against the said order in any court. He next submitted that in view of the fact that the applicant has been acquitted in the aforesaid case, on the basis of which, the instant case under Section 3(1) U.P. Gangster Act has been registered against him. He next submitted that there is no occasion to continue criminal proceeding against the applicant under the provision of Section 3(1) U.P. Gangster Act and the same is liable to be set aside.
5. In support of his contention, learned counsel for the applicant placed reliance upon the judgment of this Court in Application U/s 482 No. 11645 of 2007 (**Sartaj Vs. State of U.P.**), decided on 13.08.2019.

6. Learned A.G.A. has vehemently opposed the submission of learned counsel for the applicant, but could not dispute the fact that applicant has been booked in the present proceeding under Section 3(1) U.P. Gangster Act on the basis of one case in Case Crime No. 106 of 2009, under Sections 394, 504, 411 IPC, in which he was acquitted vide judgment and order dated 09.02.2023 and no appeal has been preferred by the State against the said judgment and order of acquittal.

7. I have considered the submissions made by learned counsel for the parties and perused the record.

8. Facts of the case are undisputed that applicant has been booked under Section 3(1) U.P. Gangster Act on the basis of solitary case being case crime 106 of 2009, under Sections 394, 504, 411 IPC, in which he was acquitted vide judgment and order dated 09.02.2023 and no appeal has been filed against the said order of acquittal, therefore, present criminal proceeding is liable to be set aside.

9. I have also perused judgment of this Court passed in the matter of **Sartaj (Supra)**. In the judgment, Court has taken the very same view.

10. Therefore, once the cause of action for convicting the applicant under Section 3(1) U.P. Gangster Act is over, there is no occasion to continue criminal proceeding against the applicant under Section 3(1) U.P. Gangster Act.

11. Under such facts and circumstances of the case, application is **allowed**.

12. Aforesaid criminal proceeding against the applicant is hereby quashed.

13. No order as to costs.

Order Date :- 19.10.2023

Shiv