

Court No. - 87

Case :- APPLICATION U/S 482 No. - 35533 of 2023

Applicant :- Muzaffar

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

Counsel for Applicant :- Mohd Harish, Dharmendra Pratap Singh, Diwan Saifullah Khan, Krishna Deep Singh

Counsel for Opposite Party :- G.A.

Hon'ble Neeraj Tiwari, J.

1. Heard learned counsel for the applicant and Sri Roopak Chaubey, learned A.G.A. for the State.

2. The present 482 Cr.P.C. application has been filed to quash the entire proceedings of Criminal Case No. 17 of 2014 (State Vs. Muzaffar), arising out of Case Crime No. 90 of 2014, under Sections- 3(1) of U.P. Gangsters & Anti Social Activities (Prevention) Act, 1986, Police Station- Aurai, District- Sant Ravi Das Nagar.

3. Case was heard on 01.11.2023 and Court has passed the following order:-

"1. Heard Sri Dharmendra Pratap Singh, learned counsel for the applicant and Sri Roopak Chaubey, learned AGA.

2. Learned counsel for the applicant submitted that applicant was charged under the provisions of Gangster Act on the basis of three criminal cases, out of which, he is acquitted in one case and so far as remaining two cases are concerned, one is at the stage of committal and in other case, evidence has yet not been started. He next submitted that in case, applicant is acquitted in other two cases also, he would automatically stands acquitted in gangster cases also. Therefore, under such facts and circumstances of the case, trial of this case may have been kept in abeyance till the conclusion of trial of remaining two cases.

3. Learned AGA has invited attention of Section 12 of U.P. Gangsters and Anti-Social Activities (Prevention), Act, 1986 to this Court, which provides that 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.

4. Learned counsel for the applicant prays for and is granted three days time

to assist the Court by producing relevant law, judgment pronounced by any Court of law.

5. Put up this case as fresh on 06.11.2023 at 10.00 A.M."

4. Pursuant to the order dated 01.11.2023, learned counsel for the applicant has produced judgment of this Court passed in the matter of **Sartaj vs. State of U.P. (Application U/S 482 No. 11645 of 2007)** decided on 13.08.2019. Facts of the case are that accused was booked under the provisions of U.P. Gangsters & Anti Social Activities (Prevention) Act, 1986 (hereinafter referred to as 'Gangsters Act') only on the basis of sole case having no other criminal history. Ultimately, applicant was acquitted in the said case and on the basis of that, proceeding of Gangsters Act has been quashed.

5. Learned A.G.A. pointed out that first of all, in the matter of **Sartaj (Supra)**, there was only one case, in which applicant was acquitted and further provisions of Section 12 of Gangsters Act was not considered. So far as present case is concerned, apart from three cases mentioned in the Gang Chart, applicant is having criminal history of 33 cases. He has also produced the chart to this effect, which is taken on record. Lastly, he submitted that in the light of Section 12 of Gangsters Act, trial of Gangsters Act may not be stayed rather keeping the trial in abeyance in other cases.

6. I have considered rival submissions advanced by counsels for parties and perused the records, provisions of Gangsters Act as well as judgment cited above. The main relief prayed by learned counsel for applicant is that till the completion of trial in other cases mentioned in Gang Chart, present trial may be stayed.

7. Now coming to Section 12 of Gangsters Act. For ready reference, same is quoted below:-

"12. 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."

8. From the perusal of Section 12 of Gangsters Act, it is apparently clear that in this Act of any offence by Special Court shall have precedence over the trial of any other case. Further, it is also clear that trial of Gangsters Act cannot be stayed, therefore, the argument of learned counsel for applicant is having no force.

9. Now coming the judgment passed in the matter of **Sartaj (Supra)**. The facts of the said judgment are entirely different as in that case, accused was booked under the provisions of Gangsters Act based upon only one case having no other criminal history, therefore, Court was of the view that proceedings under Gangsters Act cannot be continued. In this judgment, section 12 of Gangsters Act has also not been considered.

10. So far as present case is concerned, there is still no acquittal order in remaining two cases mentioned in Gang Chart and further, there are many other cases pending against the applicant in which criminal trial has not been completed. Therefore, in the light of provisions of Section 12 of Gangsters Act coupled with the facts of present case, relief prayed cannot be granted.

11. Therefore, instant 482 application lacks merit and is accordingly **dismissed**.

12. No order as to costs.

Order Date :- 6.11.2023

Sartaj