

Court No. - 87

Case :- APPLICATION U/S 482 No. - 43910 of 2022

Applicant :- Gyanenda Chaudhary

Opposite Party :- State of U.P.

Counsel for Applicant :- Mayank Yadav, Vivek Kumar Singh

Counsel for Opposite Party :- G.A.

Hon'ble Neeraj Tiwari, J.

1. Heard Sri Vivek Kumar Singh, learned counsel for the applicant and learned A.G.A. for the State.

2. The present 482 Cr.P.2C. application has been filed to quash the entire proceedings of Special Criminal Case No. 74 of 2015 (State Vs. Gyanendra and others), arising out of Case Crime No. 494 of 2014, under Sections- 2/3 U.P. Gangsters and Anti-Social Activities (Prevention) Act, Police Station- Partapur, District- Meerut, pending in the court of Special Judge, U.P. Gangsters and Anti-Social Activities (Prevention) Act, Meerut.

3. Learned counsel for the applicant submitted that an F.I.R. was lodged against the applicant, which was registered as Case Crime No. 86 of 2014, under sections- 379, 285, 149, 411, 34 IPC and section 15/16 P & MP Act, 1962 (Amendment 2011), Section 3 of Prevention of Damages to Public Property Act, 1984 (Act No. 3 of 1984), section 3(3) of Motor Spirit & High Speed Diesel Regulation of Supplies, Distribution & Prevention of Malpractices Order 1998 and Section 3, 4, 5 of Explosive Substances Act, in which charge sheet was also submitted. Thereafter, applicant has moved discharge application, which was allowed vide order dated 04.12.2021. On the basis of above mentioned sole case, present criminal proceeding has also been initiated, in which charge sheet has been submitted against him and trial is going on.

4. Learned counsel for the applicant next submitted that the order dated 04.12.2021, by which applicant was discharged has never been challenged by the authorities or Indian Oil Corporation before any Court of law and same has attained finality.

5. Learned counsel for the applicant further submitted that there

are six other cases earlier registered against the applicant, out of which, in three cases having Case Crime No. 250 of 2018, under Section 33 of Indian Forest Act, Police Station Inchauli, District Meerut, Case Crime No.626 of 2019, under Section 3 of the Prevention of Damage to Public Property Act, Police Station Partapur, District Meerut, Case Crime No.431 of 2014, under Sections 379, 411, 504 and 506 I.P.C., Police Station Civil Line, District Meerut, Investigating Officer has submitted final report, which is accepted by the Court.

6. There are two other cases i.e Case Crime No.684 of 2017, under Section 4 (10) of the Forest (Conservation) Act, Police Station Kankarkhera, District Meerut and Case Crime No.558 of 2017, under Sections 4, 10, 33 of the Forest (Conservation) Act, Police Station Partapur, District Meerut, Investigating Officer submitted final report, which is still pending for disposal.

7. In the sixth case i.e. Case Crime No.63 of 2011, under Sections 281, 283, 420 I.P.C., Police Station Partapur, District Meerut, this Court has stayed the proceedings vide order dated 18.07.2014 passed in Application No.26439 of 2014.

8. He next submits that undisputedly FIR under the provision of Gangster Act has been lodged against the applicant on the basis of one case, in which, he has been discharged by the Hon'ble Court and said discharge order has never been challenged by the State or Indian Oil Corporation, therefore, there is no occasion to conclude the proceeding of the present case. In support of his contention, he relied upon the judgement of this Court in the case of ***Sartaj vs. State of U.P. reported in 2020 (111) ACC 51.***

9. Learned A.G.A. has opposed the submission made by learned counsel for the applicant, but could not dispute the arguments on the basis of counter affidavit filed by the State about the facts status of cases.

10. I have considered the rival submissions made by the learned counsel for the parties and perused the record. From perusal of the record, it is clear that FIR i.e Case Crime No.494 of 2014, under Section 2/3 U.P. Gangster and Anti Social Activities (Prevention) Act, Police Station Partapur, District Meerut has been lodged against the applicant on the basis of one case i.e. Case Crime No.86 of 2014 (supra), in which, he has moved discharge application, which was allowed vide order dated 04.12.2021. Order dated 04.12.2021 has never been challenged by the State or Indian Oil Corporation.

11. Facts of the present case as well as remaining six cases are also not disputed in the counter affidavit filed by the State.

12. I have also perused the judgement of this Court in case of Sartaj vs. State of U.P. (supra), the relevant paragraph of the judgement reads as under:-

"15. A perusal of the aforesaid sections shows that the applicant was implicated in an offence under chapter 16, I.P.C. and therefore he was implicated in the case under the Gangsters Act. There is only one case shown against the applicant in the gang chart in which the applicant was acquitted by the competent Court and therefore his implication and trial under Section 2/3 of the Gangsters Act was not justified.

16. From the law of the Apex Court as discussed above it is crystal clear that the trial of the applicant for an offence under Section 2/3 of the Gangsters Act is not justified.

In view of the fact that only one case is registered against him and he has been acquitted in that case.

17. In view of the above consideration of the facts of the case and law cited the charge sheet No.119 dated 13.8.2001, under Section 2/3 The U.P. Gangster & Anti Social Activities (Prevention) Act, 1986, Police Station Kotwali, District Meerut, pending in the Court of learned Special Judge Gangster Act, Meerut, is hereby quashed."

13. Facts of this case are squarely covered with the law laid down in the matter of **Sartaj(Supra)**. Once the applicant has been discharged in criminal case, upon which the proceeding of Gangster Act was initiated, there is no occasion to continue the proceeding under the provision of Gangster Act against the applicant and present criminal proceeding is liable to be set aside.

14. The application (u/s 482 Cr.P.C.) is allowed. Proceeding of Special Criminal Case No. 74 of 2015 (State Vs. Gyanendra and others), arising out of Case Crime No. 494 of 2014, under Sections- 2/3 U.P. Gangsters and Anti-Social Activities (Prevention) Act, Police Station- Partapur, District- Meerut is hereby quashed, so far as it relates to applicant only.

15. No order as to costs.

16. This order would not affect the trial of other co-accused persons.

Order Date :- 11.12.2023

Amit

