

Court No. - 81

Case :- MATTERS UNDER ARTICLE 227 No. - 2740 of 2025

Petitioner :- Ravindra Singh

Respondent :- State of U.P. and Another

Counsel for Petitioner :- Sunil Kumar

Counsel for Respondent :- G.A.

Hon'ble Ms. Nand Prabha Shukla,J.

1. Heard Sri Sunil Kumar, learned counsel for petitioner, learned AGA for the State and perused the record.

2. At the very outset learned counsel for the petitioner states that against the co-accused, the petitioner had preferred a petition under Article 227 No.10901 of 2024 (Ravindra Singh Vs. State of U.P. and 5 others) challenging the order dated 24.7.2024 passed by learned Additional Sessions Judge/ Fast Track Court No.2(14th Finance Commission), Gorakhpur . The order dated 12.12.2024 passed in the said matter reads as under :-

" 1. Heard Sri Sunil Kumar, learned counsel for the petitioner, Sri C.B.D. Dubey, learned counsel for the respondent no.3 and learned AGA for the State.

2. Present petition has been preferred with the prayer to issue an order or direction to set aside the impugned judgment and order dated 24.07.2024 passed by learned Additional Sessions Judge/ Fast Track Court No. 2 (14th Finance Commission), Gorakhpur jointly adjudicated Criminal Revision no. 273 of 2023, Rupam Tiwari vs. State of U.P. and another and Criminal Revision no. 62 of 2024, Deepak Kumar Agrawal vs. Ravindra Singh.

3. The core legal issue which has been put to be adjudicated by this Court as indicated by learned counsel for the petitioner is regarding institution of criminal revision by two co-accused out of which one was allocated regular number and one was pending as defective on the ground of delay which was supported with application under Section 5 of Limitation Act but at the time of passing order which impugned the present petition dated 24.07.2024 both the criminal revisions were decided i.e. as criminal revision no. 273 of 2023 (regular number of criminal revision no. 62 of 2024) (Defective) which is apparent from the folio of the copy of the order sheet of criminal misc. case no. 62 of 2024 wherein criminal revision preferred at the behest of respondent no. 3 was treated as criminal revision no. 62 of 2024 and as such the process for issuing notices to respondents are hereby dispensed with, since the matter is related to the records available with the petition and there is hardly any case of factual dispute arising for filing instant petition.

4. The factual matrix derives that over the complaint preferred at the behest of petitioner, respondent no. 2 to 6 have been summoned vide order dated

18.8.2023 in pursuance to sections 406 of IPC.

5. Being aggrieved with the order dated 18.8.2023, respondent no. 2 preferred criminal revision no. 273 of 2023 (Roopam Tiwari vs. State of U.P. and others) which was well within time, in second set respondent no. 3 also preferred criminal revision but along with application under Section 5 of the Limitation Act supported with an affidavit on dated 6.1.2024, over which criminal misc. no. 62 of 2024 has been allocated from the office of learned Session Judge, Gorakhpur and notices have been issued in pursuance to section 5 of the Limitation Act on dated 12.2.2024 and the criminal misc. no. 62 of 2024 was pending only at the behest of disposal of application preferred at the behest of respondent no. 3 under Section 5 of the Limitation Act only. During pendency of the Criminal Misc. no. 62 of 2024 it has been brought to the notice of learned Sessions Judge that another criminal revision preferred at the behest of respondent no. 2 is pending before learned Court of Additional Sessions Judge/Fast Track Court no. 2, Gorakhpur and as such the same was transferred from learned Sessions Judge to the concerned court where the criminal revision no. 273 of 2023 was pending to be adjudicated vide order dated 25.04.2024.

6. Learned counsel for the petitioner submitted that while passing order dated 24.07.2024, learned revisional court failed to adopt the process of law while deciding criminal misc. no. 62 of 2024 treating as criminal revision no. 62 of 2024 being a regular criminal revision preferred at the behest of respondent no. 3, whereas it is apparent from the records that the same was pending before learned Sessions Judge at the stage of section 5 of Limitation Act wherein the notices have been issued but the same was pending to be finally adjudicated for condonation of delay and allocation of regular number over the criminal revision preferred at the behest of respondent no. 3.

7. On the above mentioned grounds, learned counsel for the petitioner submitted that order dated 24.07.2024 in respect of criminal misc. no. 62 of 2024 which was treated as criminal revision no. 62 of 2024 is liable to be set aside.

8. Learned counsel for the petitioner also submitted that certain grounds taken up while preferring criminal misc. no. 62 of 2024 was also considered by learned revisional court while passing order dated 24.07.2024 through which order dated 18.8.2023 passed by learned concerned court was dismissed and matter was remitted back to learned concerned court for deciding as fresh in the light of the discussion and finding arrived by learned revisional court.

9. Per contra, learned counsel for respondents vehemently opposed the prayer as made in the petition and rebutted the stand taken up by learned counsel for the petitioner on the ground that bare perusal of the order impugned to the present petition does not disclose any of the grounds or material appended along with criminal misc. no. 62 of 2024, rather there is hardly any whisper in the entire order dated 24.07.2024 in respect of criminal misc. no. 62 of 2024 which was treated as regular criminal revision no. 62 of 2024, but at the same time one thing is fairly conceded by learned AGA that by bare perusal of the order sheet it is crystal clear that criminal misc. no. 62 of 2024 was transferred as defective criminal revision by the orders of

learned Sessions Judge to learned Additional District and Sessions Judge by way of clubbing both the matters along with regular criminal revision which was pending to be adjudicated by the same court.

10. Learned AGA also fairly admitted that at no point of time any specific regular allocation of number has been extended to the criminal revision preferred at the behest of respondent no. 3 and as such without deciding application preferred under section 5 of Limitation Act, the criminal revision preferred by respondent no. 3 cannot be automatically treated as regular criminal revision filed by respondent no. 3.

11. After having the rival submissions extended by learned counsel for the parties, and by bare perusal of the order sheet appended along with the instant petition specifically related to criminal misc. no. 62 of 2024 through which it is apparent that at no point of time there is hardly any adjudication over the application preferred at the behest of respondent no. 3 under section 5 of Limitation Act and without deciding the same, learned court of Session Judge transferred that matter before learned court of Additional Session Judge, Fast Track Court, Gorakhpur by way of clubbing two sets of criminal revision preferred by co-accused, in which the earlier criminal revision which was pending before learned Additional Sessions Judge was regular criminal revision numbered as 273 of 2023 and criminal misc. no. 62 of 2024 was clubbed for deciding together since arising out of same summoning order dated 18.8.2023.

12. At the same time, it is also apparent from the order sheet maintained by learned court of Additional Session Judge, Fast Track Court, Gorakhpur that the application under Section 5 of Limitation Act has never been allowed and the second set of criminal revision which was not having the regular revision number and clubbed as Criminal Misc. No. 62 of 2024 was decided along with Criminal Revision no. 273 of 2023, meaning thereby without condoning the delay, one criminal revision along with criminal revision no. 273 of 2023 was also allowed which was only numbered as criminal misc. no. 62 of 2024. The apparent error of law is available on face of record itself and as such order impugned to the instant petition over criminal misc no. 62 of 2024 without condoning the delay which has been sought to be condoned by way of preferring application under Section 5 of Limitation Act is bad in the eye of law.

13. In view of the aforementioned discussions, order dated 24.07.2024 is hereby set aside. Matter is remitted back to learned court of Additional Sessions Judge/Fast Track Court, Gorakhpur/concerned court for deciding both the criminal revision numbered as 273 of 2023 and criminal misc. no. 62 of 2024 as fresh by way of affording proper opportunity of hearing to all concerned.

14. The instant petition stands allowed accordingly."

3. Accordingly, the present petition is allowed in the same terms.

Order Date :- 21.3.2025/Mukesh