

(2010) 05 AHC CK 0054

In the Allahabad High Court

Case No : Criminal M. Application No. 14118 of 2010

Dauji Prasad alias Dau Dayal

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 11-05-2010

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 173(8), 482
Penal Code, 1860 (IPC) — Section 420, 468, 469, 471

Citation : (2011) 1 ACR 922 : (2010) 7 RCR(Criminal) 1290

Hon'ble Judges : Arvind Kumar Tripathi, J

Bench : Single Bench

Judgement

Arvind Kumar Tripathi, J.—Present application u/s 482, Code of Criminal Procedure has been filed for quashing of the order dated 18.3.2010, passed by Respondent No. 2, Superintendent of Police, Gramin (West), Agra.

2. Heard learned Counsel for the Applicant, learned A.G.A. for the State and perused the record.

3. Learned Counsel for the Applicant submitted that after investigation the charge-sheet was submitted by the Investigating Officer in Case Crime No. 561 of 2009 under Sections 420, 468, 469 and 471, I.P.C.. P.S. Sainya, district Agra. He contended that from perusal of the impugned order passed by Superintendent of Police on 18.3.2010, it is clear that he directed for reinvestigation though he has no power to direct for reinvestigation after the submission of charge-sheet. Hence, the aforesaid order is liable to be quashed, which cannot sustain in eye of law.

4. He relied upon judgment of the Division Bench of this Court in Virendra Singh v. State of U.P. and Ors. 2002 (2) JIC 375 (All) : 2002 (2) ACR 1672 and judgment of Apex Court in Ramachandran v. R. Udhayakumar and Ors. 2008 (3) JIC 484 : 2008 (3) ACR 2648 (SC).

5. Learned A.G.A. opposed the prayer on the ground that the order may not be

happily worded but it appears that order has been passed only for further investigation and not for fresh or reinvestigation, hence the present petition is liable to be rejected.

6. As per the provision and the law laid down in the aforesaid judgment, there is no dispute that u/s 173(8), Code of Criminal Procedure the power is for further investigation after submission of the charge-sheet but there is no power for fresh investigation or reinvestigation. Direction to the Investigating Officer by higher officer for reinvestigation means, to wipe out the earlier investigation. In the present case, direction was issued by the Superintendent of Police to investigate the matter again independently and submit the progress report. Intention of Superintendent of Police was clear that the matter requires further investigation. It is clear that he has no power to issue direction for fresh investigation or reinvestigation and the order for reinvestigation cannot sustain in eye of law. Hence, in compliance of the order of Superintendent of Police, Investigating Officer has neither power for reinvestigation or fresh investigation, nor such order is binding, since fresh investigation or reinvestigation is not permissible after submission of charge-sheet. However, if additional material came to notice of the Investigating Officer or higher authorities then further investigation is not barred. Hence, in view of the facts and circumstances. Investigating Officer is free for further investigation in view of the provisions under Sections 173(8), Code of Criminal Procedure

With the aforesaid observation, the present application is finally disposed of.