
(2009) 09 AHC CK 0221
In the Allahabad High Court
Case No : Criminal M. Case No. 3201 of 2009

Devendra Prakash Shukla

APPELLANT

Vs

Judicial Magistrate and Others

RESPONDENT

Date of Decision : 15-09-2009

Acts Referred:

Uttar Pradesh General Clauses Act, 1904 — Section 6

Citation : (2010) 1 ACR 1018

Hon'ble Judges : Alok K. Singh, J

Bench : Single Bench

Advocate : Sanjay Kumar, for the Appellant; R.K. Dwivedi, A.G.A., for the Respondent

Judgement

Alok K. Singh, J.—Learned A.G.A. informs that in order to give instructions, one pairakar of the District Magistrate, Unnao, i.e., Sri. Ramendra Singh and Sub-Inspector Sri. Mithilesh Chandra Bajpai are present.

2. Heard Sri. Sanjay Kumar, advocate, learned Counsel for the Petitioner, Sri. R.K. Dwivedi, learned A.G.A. and perused the material placed on record.

3. Firstly, it is said that in stead of filing the charge-sheet before the learned Additional Sessions Judge concerned, the impugned charge-sheet has been filed before the 1st Additional C.J.M., Unnao.

4. In fact vide circular letter No. 5/Admin. A-3 dated Allahabad 30th March, 1999, the Registrar General of this Court has informed all the District and Sessions Judges that in view of the letter dated 3.10.1998 of Secretary, Government of U.P. addressed to all the District Magistrates of the State of U.P., this Court has ordered that being the provisions of the E.C. Act, 1981 read with Essential Commodities Ordinance, 1998 ineffective by virtue of non-extension of powers, in view of Section 6(e) of U.P. General Clauses Act, 1904 the cases in which cognizance has been taken shall continue to be tried by Special Judge (E.C. Act) in each district. But so far new cases arising out of Essential

Commodities Act, 1955 dated 8.7.1998 the cognizance shall be taken as per provision of the said Act by the Magistrate having jurisdiction of the cases. It has also brought to the notice of the Court that in all the District Courts the Courts of 1st A.C.J.M. who deals economic offences has been authorized in this regard. In the present case also, the cognizance has been taken by the concerned 1st A.C.J.M., Unnao. Therefore, the aforesaid contention has no substance.

5. Secondly, it is said that seeking of permission of the District Magistrate is a condition precedent for taking cognizance and the learned Counsel for the Petitioner submits that no such permission was obtained prior to taking cognizance by the learned Magistrate. Learned A.G.A. submits that permission of the District Magistrate was obtained on 18.12.2008, whereas the cognizance was taken on 24.2.2009. It is found to be correct. Therefore, I regret in not finding any substance in this contention also.

6. Learned Counsel for the Petitioner lastly submits that the offences are not very grave and according to the prosecution case, only 85 gas cylinders were found short in the shop of the Petitioner at the time of the raid. He is said to be a licence holder. He also submits that being a law abiding citizen he intends to appear before the court below to seek bail.

7. Accordingly, this petition is disposed of with the direction that if the Petitioner appears before the court below within one month from today and applies for bail, the court (s) below shall dispose of the bail application expeditiously, preferably on the same day, if possible in accordance with the law laid down in the case of Smt. Amrawati and Anr. v. State of U.P. 2004 CBC 705 : 2004 (3) ACR 2888.

Petition stands disposed of accordingly.