

(1983) 02 AHC CK 0007

In the Allahabad High Court

Case No : Criminal Miscellaneous Case No. 969 of 1979

H.L. Baheti

APPELLANT

Vs

District Magistrate Kheri and Others

RESPONDENT

Date of Decision : 15-02-1983

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482
Uttar Pradesh Sugarcane (Regulation of Supply and Purchase) Act, 1953 — Section 22, 33(1)

Citation : (1983) 7 ACR 224

Hon'ble Judges : K.N. Goyal, J

Bench : Single Bench

Advocate : K.D. Srivastava and R.K. Srivastava, for the Appellant;

Judgement

K.N. Goyal, J.—The Petitioner is an occupier of a sugar mill. Under the U.P. Sugarcane (Supply and Purchase) Order, 1954, Clause 5(10), the Cane Commissioner on 6-12-78 directed the occupier of the mill to establish a new purchasing centre at Dhakarva Chauraha apart from the existing purchasing centre which was located at Jatpurwa. The existing purchasing centre Jatpurwa earlier used to cover the cane-growers both of Jatpurwa and Dhakarva Chauraha areas. However, on the demand of the cane-growers who were nearer to Dhakarva Chauraha and considering other relevant factors, the Cane Commissioner passed the said order dated 6-12-78 requiring him to have two separate purchase centres for the two areas. This was challenged in appeal by the Petitioner. That appeal is still pending and no stay order was passed in favour of the Petitioner. On 13-12-78 the District Cane Officer took the view that by his failure to comply with the order dated 6-12-78 the Petitioner had committed an offence punishable u/s 22 of the U.P. Sugarcane (Regulation of Supply and Purchase) Act, 1953. Accordingly, a complaint was filed u/s 22 read with Section 33(1) of the said Act by the District Magistrate. The Petitioner has filed this petition u/s 482 Code of Criminal Procedure for quashing the prosecution.

2. Several grounds have been taken in the petition for challenging the validity of the charge against the Petitioner. The validity of the order dated 6-12-78 has, inter alia, been challenged on a number of grounds. It is, however, not necessary to consider the various contentions raised in the petition because I am of the opinion, after hearing learned Counsel for the Petitioner and learned Additional Government Advocate, that the petition must succeed on a short ground.

3. The order dated 6-12-78 did not specify any time limit for compliance by the Petitioner therewith. As no time limit was specified, it could not be assumed that the offence had already occurred on 13-12-78, as mentioned in the complaint. The establishment of a purchasing centre does involve some preparation and also purchase of costly equipment which may not be available within a week. Even if we assume that in the absence of specification of a particular time limit the order was required to be complied with within a reasonable time, it cannot be said that one week was necessarily a reasonable time for complying with the order. The order was indeed clearly defective inasmuch as, having regard to the fact that noncompliance with the order would have entailed a penalty for a criminal offence, it was necessary that some time limit should have been specified for compliance with the order. The absence of specification of time limit leads to the consequence that the offence cannot be said to have completed at the time the complaint was filed. Accordingly, the prosecution cannot be sustained and it would be an abuse of process of Court to allow it to continue any further.

4. In the result, the petition is allowed and the complaint against the Petitioner and the prosecution based thereon are hereby quashed.