
(2005) 11 AHC CK 0193

In the Allahabad High Court

Case No : Criminal Miscellaneous Writ Petition No. 3126 of 2004

Jatan Sirohi

APPELLANT

Vs

State of U.P., Director, Jail Administration, District Magistrate
and Superintendent, District Jail

RESPONDENT

Date of Decision : 10-11-2005

Acts Referred:

Penal Code, 1860 (IPC) — Section 307, 364, 396

Citation : (2005) 11 AHC CK 0193

Hon'ble Judges : R.C. Deepak, J

Bench : Single Bench

Advocate : D.R. Chaudhary, Anakshi Sharma and Satish Trivedi, for the Appellant; A.K. Tripathi, Surendra Singh, A.G.A. and A.G.A., for the Respondent

Final Decision : Allowed

Judgement

R.C. Deepak, J.—Heard Sri Satish Trivedi, learned senior counsel, Sri D.R. Chaudhary, learned counsel for the petitioner, Sri A.K. Tripathi and Sri Surendra Singh, learned special counsel for the State and perused the record.

2. The petitioner Jatan Sirohi has filed the present criminal misc. writ petition for quashing the order dated 17.4.2004 passed by the learned Special Judge (E.C. Act), Bulandshahar in S.T. No. 99 of 2004 under Sections 396, 364, 307 IPC whereby he allowed the prayer of the Jail Superintendent, Bulandshahar for transferring the petitioner / accused to the Central Jail, Agra.

3. The facts of the case briefly narrated are that the petitioner (Jatan Sirohi) is an inter-state criminal as several criminal cases are pending against him in the different States of the Country. He has been sentenced to life imprisonment in S.T. No. 167 of 2002 in the State of Madhya Pradesh and he was consequently imprisoned in Central Jail, Bhopal (M.P.) to serve out the sentence. He is also an accused in S.T. No. 99 of 2004 under Sections 396, 364, 307 IPC, which is pending in the Court of Special Judge (E.C. Act), Bulandshahar. The trial of the

case is in progress as the same is proceeding expeditiously in compliance with the order dated 30.8.2005 passed by this Court in criminal misc. application No. 11797 of 2005. A copy of the order dated 30.8.2005 is annexed and marked as annexure-12 with the supplementary affidavit. It is not out of place to mention that he (petitioner) was transmitted from the Central Jail, Bhopal to the District Jail, Bulandshahar vide order dated 7.1.2004 passed by this Court in criminal misc. writ petition No. 8123 of 2003. A copy of the order dated 7.1.2004 is annexed and marked as annexure-2 with the writ petition. It is alleged that the petitioner has apprehension of danger to his life during the period of his being taken to the Court from the Jail and vice-versa. Therefore, he filed the writ petition (criminal) No. 196 of 2004 in the Hon"ble Apex Court wherein the Hon"ble Court by its orders dated 27.8.2004 & 1.10.2004 provided him interim security. Not only this, but the security was also provided to him vide its order dated 25.11.2004 passed by this Court in criminal misc. writ petition No. 9508 of 2004. The true copies of the orders dated 27.8.2004, 1.10.2004 & 25.11.2004 are annexed and marked as annexures - 7, 8 & 9 with the supplementary affidavit in the writ petition.

4. The petitioner has already filed an application dated 20.2.2004 in the Court of learned Sessions Judge, Bulandshahar expressing his apprehension of elimination by his enemies / rivals in collusion with the police and the jail authorities concerned. A true copy of the application dated 20.2.2004 is annexed and marked as annexure-3 with the writ petition. During the pendency of this very application, the Superintendent, District Jail, Bulandshahar moved an application marked as annexure-4 with the writ petition in the Court of learned Special Judge (E.C. Act) for granting permission to transmit the petitioner / accused to the Central Jail, Agra for the better security point of view. While disposing of that application, the learned Special Judge passed the impugned order dated 17.4.2004 permitting the transmission of the petitioner / accused from the District Jail, Bulandshahar to the Central Jail, Agra subject to certain conditions mentioned in the order itself. Consequently, the administrative order dated 25.5.2004 (annexure-4 to the supplementary counter affidavit in the writ petition) has been passed by the Administration.

5. It is against the order dated 17.4.2004 the present criminal misc. writ petition has been filed mainly on the grounds inter alia that the order is non-speaking and that the petitioner / accused was not given opportunity to be heard.

6. Thereafter the counter affidavit and rejoinder affidavit were filed.

7. It may be mentioned in a general way without prejudice to the merit of the case in any manner whatsoever that externally it appears that there are too many security arrangements everywhere, but internally there is too little security everywhere. The reality / secrecy lies somewhere in between. That cannot be easily fathomed by anyone at random.

8. The petitioner / accused allegedly apprehends that his rivals may eliminate /

kill him during transit period from the jail to the Court or vice-versa. It may be mentioned that life is more precious than anything else and that none can restore what death / elimination takes away. The learned Magistrate does not appear to have provided petitioner / accused the opportunity to be heard, lopsided view is always erroneous. The petitioner / accused had already moved an application dated 20.2.2004 before the learned Sessions Judge, which does not appear to have been disposed of as yet.

9. Without prejudice it is unhesitatingly expressed that all these observations have no bearing upon the merits of the case.

10. Having considered all the facts and circumstances of the case arising out of the record, I arrive at the conclusion that the impugned order is wholly baseless. The order without reason is no order in the eye of law. Therefore, the impugned order dated 17.4.2004 is quashed.

11. The present criminal misc. writ petition is accordingly allowed.