
(2001) 02 AHC CK 0084

In the Allahabad High Court

Case No : Criminal Miscellaneous W.P. No. 1072 of 2001

Sanjay Singh

APPELLANT

Vs

State of U.P.and Others

RESPONDENT

Date of Decision : 23-02-2001

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2001) 02 AHC CK 0084

Hon'ble Judges : M.Katju, J and Onkareshwar Bhatt, J

Final Decision : Disposed Of

Judgement

1. Heard learned counsel for the petitioner and learned Government Advocate. Respondents may file counter affidavit within 2 weeks. Respondents 5 to 7 will be served within 4 days through the S.S.P.

2. The allegations in para 10 of the writ petition are very serious. The dispute relates to the shop and residential premises situated in plot No. 33 in Village Bhopa Bazar, P.S. Chauri Chaura, District Gorakhpur which had been allotted to the father of the petitioner, Lal Bahadur Singh who had constructed a residential house upon the aforesaid plot in the year 1971 and since then he is living alongwith his family including the petitioner in the aforesaid house. In 1985 Lal Bahadur Singh also constructed three shops in the said premises and his whole family is dependent on the said shops. It is alleged in para 6 of the writ petition that Ram Chandra Jaiswal, respondent No. 5 is operating a gang of Antisocial persons of the locality and he is habitual of grabbing houses. Pyare Lal, respondent No. 6 and Prabhakar Rai respondent No. 7 belong to the R.S.S. and respondent No. 7 is alleged to be the Zila Pracharak of R.S.S. They initiated proceedings against the petitioner under Section 145 Cr. PC. as stated in paras 6 and 7 to the writ petition. Thereafter the petitioner's Criminal Revision No. 283 of 1999 was allowed by the learned Sessions Judge, Gorakhpur vide order dated 27111999, Annexure4 to the writ petition. The learned Sessions Judge recorded a finding to the effect that petitioner is in possession of disputed premises vide

Anneuxre4 to the writ petition.

3. Subsequently, when the respondents No. 5 to 7 could not grab the house by the aforesaid method, it is alleged in para 10 of the petition that on 3012001 the respondents No. 5 and 6 alongwith other antisocial persons armed with illegal weapons attacked the aforesaid shops of the petitioner and kidnapped the petitioner at about 11 a.m. and confined him in the premise of Gopal Shishu Mandir situated in Bhopa Bazar, P.S. ChauriChaura, District Gorakhpur and thereafter the respondent Nos. 5 to 7 with the help of their other political supporters and bad elements have forcibly taken possession of the aforesaid shops in dispute and looted the goods of the shops of the petitioner which were kept in the aforesaid shops. The goods of the value of more than 1 lac rupees were looted by the respondents No. 5 to 7 with the help of their antisocial persons and political supporters. The respondents No. 5 to 7 have ransacked the shops of the petitioner, and the furniture's in the aforesaid shops of the petitioner were broken and thrown out from the said shop with the help of political supporters and antisocial elements.

4. The petitioner lodged an F.I.R. being Crime Case No. 34 of 2001, under Sections 394 and 342,1.P.C. on 3112001 at 13.00 p.m. A true copy of the First Information Report is annexed as Annexure 5 of the writ petition.

5. Thereafter in para 13 of the writ petition it is alleged that after taking the aforesaid illegal and forcible possession of the aforesaid shop of the petitioner, the respondent No. 7 has opened the office of Rashtriya Swayam Sevak Sangh in the aforesaid premises and at present the respondents No. 5 to 7 are running the office of R.S.S. in the premises of the aforesaid shop of the petitioner and the police officers are cooperating with the respondents No. 5 to 7 and the local police is not doing fair investigation and till date the looted goods have not been recovered by the police and the cryings of the petitioner was not at all heard by the police or by the local administration. The petitioner and his whole family was left weeping in the street and all his goods and belongings were taken away by the respondents No. 5 to 7. In respect of the aforesaid incident a photograph was also taken by the Press Photographers but due to political pressure of the respondents No. 5 to 7 the photographs could not be published in newspapers. Thereafter the petitioner sent a telegram to the D.I.G. (Police) and S.S.P., Gorakhpur vide Annexure3 to the writ petition but to no avail.

6. If the allegations of the petitioner are correct, it is a very serious matter. This country is governed by the Rule of law and no one, not even those in political power, can be allowed to break the law.

7. This Court in the case of Smt. Chetan Atma Govil v. Rent Control and Eviction Officer and others, 1995 (26) ALR 114, strongly condemned the acts of house grabbing during the former S.P.B.S.P. Rule in U.P. and this Court will also condemn house grabbing if it is done by any other party. If the allegations in this petition are correct, it is disgraceful, and will not be tolerated by the Court. If the

allegations mentioned in this writ petition are correct then we are constrained to observe that the police of Gorakhpur have failed in their duty of upholding the law.

8. We, therefore, direct that the D.M. and S.S.P. Gorakhpur that if they find the allegations in the petition to be correct the possession of the entire premises must be restored to the petitioner within 24 hours from the date of production of a certified copy of this order before the D.M. or S.S.P.

9. List this case permptorily before us on 1232001 on which date personal affidavit, must be filed before us by the D.M. and S.S.P. Gorakhpur and they must appear before us on that date.

10. A certified copy of this shall be given to the learned counsels for the petitioner and Standing Counsel on payment of usual charges today. Learned Standing Counsel will send copy of this order forthwith to the D.M. and S.S.P., Gorakhpur. Direction issued.