
(2013) 01 AHC CK 0072
In the Allahabad High Court
Case No : U/S. 482/378/407 No. 2019 of 2012

Santosh Kumar and Others	Vs	APPELLANT
State of U.P.		RESPONDENT

Date of Decision : 07-01-2013

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 186, 219, 220, 482
Narcotic Drugs and Psychotropic Substances (Amendment) Act, 2001 — Section 29, 8

Citation : (2013) 2 ALJ 262

Hon'ble Judges : Vishnu Chandra Gupta, J

Bench : Single Bench

Advocate : Sunil Dixit, for the Appellant;

Judgement

Vishnu Chandra Gupta, J.—Heard learned counsel for the petitioners and learned counsel appearing on behalf of the Union of India. By means of this petition it has been prayed by the petitioner sought quashment of proceedings by this Court, of case No. 5 of 2008 pending before the Special Judge, N.D.P.S. Act at Sagar (Madhya Pradesh) in view of section 186 of the Criminal Procedure Code this Court.

2. It has been submitted by the learned counsel for the petitioner that case is pending in the Court of Special Judge, (N.D.P.S. Act), Lucknow having case No. 67 of 2008 u/S. 9A/25A & 8/29 of the N.D.P.S. Act against the petitioner and 4 others.

3. It is further submitted that another case is pending at Sagar (M.P.), the proceedings of which were sought to be quashed. The case pending at Sagar (Madhya Pradesh) is of the same transaction. It is further submitted that in view of Sections 219 and 220 of the Cr.P.C. both the cases ought to have been tried at one time in the same place.

4. I have gone through the allegation made in the case pending at Lucknow and also at Sagar (Madhya Pradesh). Recovery of eleven drum of Acetic Anhydride

from Lucknow was made from the possession of an accused Mateen. This material alleged to have been transported from Kanpur to Lucknow through transport agency. However, the case pending at Sagar (MP) relates to recovery of fourteen drum of Acetic Anhydride from the premises of the transporter at Sagar and the case against petitioner and five others was filed at Sagar, In both the cases five accused were common. In the case pending at Sagar one additional accused Suman Singh was also facing trial.

5. From perusal of the record it reveals that according to the prosecution the persons impleaded as accused in case pending at Lucknow found to be indulged in transportation and manufacturing of Heroine. Some statements were recorded during the investigation at Lucknow and on the basis of there statement certain recoveries were made and it was found that at Sagar (MP) the accused also dealt with the same illegal activities.

6. Learned counsel appearing on behalf of Union of India submits that both cases relates to the different recoveries at different places though of the same substance but the same cannot be tried together and cannot said to be the part of the same transaction. It is also submitted on his behalf that this Court has no jurisdiction to quash the proceeding pending in the Sagar (Madhya Pradesh) because this Court has no territorial jurisdiction over the proceeding of a Court pending beyond jurisdiction of this Court.

7. After considering the submission of both the sides, this Court is of the view that petition lacks merit and liable to be dismissed for the following grounds:--

1. The Court at Sagar where prosecution is pending and sought to be quashed is not subordinate to this Court, hence this Court could not pass any order quashing the proceeding pending in the Court at Sagar while exercising power conferred u/S. 482, Cr.P.C.

2. The recovery made of Acetic Anhydride from the different places, therefore, prima facie this case does not appears to be of same transaction.

8. However, it is provided that in case the petitioner want to quashment of the proceeding at Sagar (Madhya Pradesh) he may move a petition before competent Court. With the aforesaid observations, petition is finally disposed of.