

(2009) 12 AHC CK 0148
In the Allahabad High Court

Shyam Swaroop & Anr.

APPELLANT

Vs

State of U.P. Thru Secy. Home & 2 Ors.

RESPONDENT

Date of Decision : 21-12-2009

Acts Referred:

Citation : (2009) 12 AHC CK 0148

Hon'ble Judges : Amar Saran, J and Ashwani Kumar Singh, J

Final Decision : Allowed

Judgement

Ashwani Kumar Singh, J.

The arrest of the petitioners was stayed by an interim order, passed in this writ petition in case crime no. 311 of 2008, under Sections 419, 420, 467, 468, 471 I.P.C., P.S. Naka Hindola district Lucknow. The investigation had not been stayed. It is not known whether the investigation has been completed yet or not.

1. We have heard learned counsel for the petitioner and the learned A.G.A.

2. In the case of Mahendra Lal Das Vs. State of Bihar 2002 SCC(CrI) 110, it has been held by the Supreme court that while interference by the courts at the investigation stage is not called for, the investigating agency cannot be given latitude of protracting the conclusion of the investigation without any limit of time.

3. No useful purpose would be served in keeping this petition pending any longer. Accordingly, we dispose of this writ petition with the following directions:

(1) The investigation will be completed within three months of the date on which a certified copy of this order is presented before the Investigating Officer or any police officer of the district to whom the investigating officer is directly subordinate;

(2) The petitioners will not be arrested during the pendency and for the purpose of investigation, provided a certified copy of this order is presented before the

police officer as directed above within one month from today.

(3) If certified copy is not presented within the time aforesaid, the stay of arrest will not operate;

(4) If at the conclusion of the investigation a charge sheet is submitted instead of final report, it will be open to the judicial magistrate, if he decides to take cognizance, to summon the accused by summons or warrants in accordance with Section 203 Cr.P.C after copies have been prepared for compliance with Section 207/208 Cr.P.C.

(5) If for any unavoidable reason, the investigation cannot be completed within the aforesaid time of three months, it will be open to the investigating officer to apply in this writ petition by means of a miscellaneous application for enlargement of said time of three months by giving details of the investigation conducted during the aforesaid period of three months and also giving reasons why the investigation could not be completed within the time specified above;

(6) If the charge sheet is decided to be submitted to the court of magistrate, in column no.3 of the prescribed form of charge sheet, it will be mentioned that the accused have not been arrested on account of stay order granted by this court;

(7) The accused will cooperate with the investigation and in case of noncooperation or otherwise, if the investigating officer is of the opinion that for any other valid reason, the arrest of accused is necessary during or for the purpose of investigation, it will be open to the Investigating Officer to apply in this writ petition by means of a Misc. Application giving details of noncooperation as also details of what kind of cooperation is expected by the accused for completing investigation or why the arrest is otherwise necessary so that interim stay of arrest granted hereby may be vacated.

4. The writ petition is disposed of with the aforesaid directions.