

(1996) 02 SC CK 0055

In the Supreme Court Of India

Case No : Criminal Appeal No's. 22-24 of 1980

Sri Chand Kasera and Others

APPELLANT

Vs

State of Bihar and Another

RESPONDENT

Date of Decision : 28-02-1996

Acts Referred:

Bihar Control of Crimes Ordinance, 1978 — Section 3(1)

Citation : (1998) 8 SCC 725

Hon'ble Judges : A. M. Ahmadii, C.J;Sujata V. Manohar, J;B. N. Kirpal, J

Bench : Full Bench

Final Decision : Disposed Of

Judgement

1. The appellants herein had questioned the validity of the Bihar Control of Crimes Ordinance, 1978 (hereinafter referred to as "the Ordinance") and had prayed for quashing the notices issued requiring them to show cause why action should not be taken against them in pursuance of Sub-section (1) of Section 3 of the Ordinance. The contention urged by the appellants was that the Ordinance was ultra vires the Constitution and consequently the notices issued thereunder by the prescribed authority must be held to be illegal and void. The learned counsel for both the sides have pointed out that the Ordinance in question has since lapsed and has not been converted into an Act. Our attention was also drawn to the decision of this Court in *Dr D.C. Wadhwa and Others Vs. State of Bihar and Others*, wherein this Court held that re promulgation of ordinances by the Governor without getting them replaced by an Act of the legislature is a flagrant violation of the constitutional provisions and hence void. Since the Ordinance in question was not got converted into an Act of the legislature, it lapsed and, therefore, the consequential action taken thereunder must also fall. The notices issued to the appellants under the said Ordinance can, therefore, have no efficacy in law and must be held to have become ineffective. In that view of the matter, these appeals have also become infructuous, since counsel for the State of Bihar informs us that no further action has been taken pursuant

to those notices nor does the State propose to do so.

2. In the result, these appeals shall stand disposed of accordingly. No costs.