
(2005) 07 AHC CK 0119
In the Allahabad High Court
Case No : Criminal Revision No. 35 of 2004

State	Vs	APPELLANT
Mohd.Shakeel & Ors.		RESPONDENT

Date of Decision : 06-07-2005

Acts Referred:

Uttar Pradesh Gangsters and Anti-Social Activities (Prevention) Act, 1986 — Section 14, 15, 16

Citation : (2005) 07 AHC CK 0119

Hon'ble Judges : Abdul Mateen, J

Final Decision : Dismissed

Judgement

A. Mateen, J.—This case was filed as an appeal against order dated 1942002 passed by learned Special Judge, Gangsters Act, Faizabad in Misc. Case No. 241 of 2004 arising out of crime No. 1102 of 2001 under Sections 147, 332, 353 IPC and Section 3(1) of the U.P. Gangsters and AntiSocial Activities (Prevention) Act, 1986 (for short, the Act, 1986) thereby directing release of the property attached in pursuance of order passed by the District Magistrate, but later on after issuing notice to the respondents and objection having been raised that appeal under Section 378 Cr. P.C. read with Section 18 of the Act of 1986 against order passed by Special Judge, Gangsters Act on reference made by the District Magistrate under Section 16 of the Act of 1986, with respect to attachment of property, is not maintainable in view of law laid down in the case of Badan Singh alias Baddo v. State of U.P. & Ors., 2001(2) JIC 997 (All), this Court on the request made by learned Additional Government Advocate directed the appeal to be treated as revision, as such, now it is being dealt with as a revision.

2. I have heard learned Additional Government Advocate on this Revision. I have also gone through the order passed by the learned Special Judge, Gangsters Act dated 1942002 thereby releasing the property attached in pursuance of the orders passed by the District Magistrate dated 2882001.

3. As it comes out from the order of the learned Special Judge, Gangsters Act

that under Section 14(1) of the Act of 1986, the District Magistrate concerned can attach property if he has reasons to believe that any property, whether movable or immovable, in possession of any person, has been acquired by a gangster as a result of commission of an offence triable under the Act, 1986, and he may order attachment of said property, whether or not cognizance of such offence has been taken by any Court. Further, Section 15 of Act, 1986 provides with respect to release of the property and Section 16 of the Act, 1986 provides for inquiry to the character of acquisition of the property by the Court.

4. From the order of the learned Special Judge, Gangsters Act it clearly comes out that while making inquiry with respect to the release of said property attached by the District Magistrate concerned, in spite of the fact that the Court on several occasions had sent requisition, the District Magistrate has not cared to submit before the Court concerned file relating to reports enabling the District Magistrate for coming to the conclusion with respect to passing of the order under Section 14 of the Act, 1986 as such had not complied the said provision of Section 14 (1) of Act, 1986 and had also not cared to comply the provisions of Sections 15 and 16 of said Act, 1986. In any circumstance, the learned Special Judge, Gangsters Act vide reasoned order had come to the conclusion that the property which has been attached by the District Magistrate concerned vide his order dated 288 2001 has been attached without there being any rhyme or reason and being satisfied on the basis of record that the movable and immovable property has been acquired by the respondents as a result of commission of offence triable under the Act, 1986, as such released the property.

5. I do not find any illegality or irregularity in said order of learned Special Judge, Gangsters Act, Faizabad.

6. The revision thus fails and is accordingly dismissed. Stay order is hereby vacated.

Revision dismissed.