
(2001) 07 AHC CK 0134

In the Allahabad High Court

Case No : Criminal Miscellaneous Case No. 907 of 2001

State of U.P.

APPELLANT

Vs

Shashi Bhan Shukla

RESPONDENT

Date of Decision : 27-07-2001

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482

Citation : (2001) 07 AHC CK 0134

Hon'ble Judges : R.D.Shukla, J

Final Decision : Allowed

Judgement

R.D. Shukla, J.—The petition under Section 482 Cr. PC has been moved by the State of U.P. for setting aside the orders dated 2852001 passed by the C.J.M. Balrampur and the orders dated 162001 passed by the Sessions Judge Balrampur.

2. The facts necessary for this petition under Section 482 Cr. P.C. are that Forest Department seized a Truck No. U.P. 043B 59/6 along with wood and other articles loaded in it. An application was moved before the C.J.M. Balrampur by the owner of the Truck for its release and the said Magistrate on 2852001 directed conditional release of the Truck in question to the respondent. Aggrieved by this order a revision was preferred in the Court of Sessions Judge Balrampur who on 162001 passed the following order:

head on stay application. The powers of confiscation have been enforced on 1642001 while application for release was moved on 1342001 when this provision was not in force. Hence the matter of release of truck could be decided by CJM under the provisions of Cr. P.C. By release of truck no irreparable loss is going to be caused to the department. On the other hand the vehicle may deteriorate in this reason. Hence stay of the release order is not proper. Prayer for stay is refused.

Notice of revision is given to the opposite party. The revision shall be heard on 462001 and summon records of Lower Court. "Heard the learned Additional

Government Advocate and the learned Counsel for the opposite party.

3. It has been contended on behalf of the state that the Forest Department seized the Truck and in view of the Indian Forest (Uttar Pradesh Amendments) Act, 2000 (U.P. Act 1 of 2000), the jurisdiction of Court of C.J.M. is barred regarding release of the vehicle as the Truck was confiscated by the Forest Department. The notification regarding the said U.P. Amendments was issued on 1642001, which meant that the jurisdiction of the Court was barred with effect from that date. The impugned order dated 2852001 indicated that on 642001 the Truck in question had been seized and confiscated. It is worth mention that on said date, the said U.P. Amendments were not notified in the Gazette Notification. U.P. Act 1 of 2001 was published in the Gazette Notification on 1642001. The amendments were not enforced retrospectively (sic) the sanction permitted by the U.P. Act 1 of 2001.

4. The revision is still pending before the Sessions Court at Balrampur which has not been decided so far. Therefore, the petition under Section 482 Cr. P.C. is not justified. It is proper that at the time of revisional hearing the pleas relating to the matter in question, should be raised before the Revisional Court which should decide the matter in accordance with law expeditiously. No interference is required under Section 482 Cr. P.C. at this stage in the case as there is no abuse of the process of Court.

The petition under Section 482 Cr. P.C. is, therefore, dismissed.