

(1991) 04 AHC CK 0086
In the Allahabad High Court
Case No : Criminal Revision No. 1406 of 1989

Subhash Chandra

APPELLANT

Vs

State of U.P.and Anr.

RESPONDENT

Date of Decision : 01-04-1991

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 451, 457

Citation : (1991) 04 AHC CK 0086

Hon'ble Judges : Palok Basu, J

Final Decision : Allowed

Judgement

Palok Basu, J.

1. This revision has been filed by Subhas Chandra against the order dated 2891989 passed by the IVth Additional Sessions Judge, Azamgarh, allowing the revision and setting aside the order dated 1681989 passed by the IVth Additional MunsifMagistrate, Azamgarh, under Section 451, Cr. P. C. releasing Jeep No. MAP 1321 in favour of the applicant.

2. Jeep No. MAP 1321 has been held to be having new No. UMD 3858 and was directed to be released in favour of Subhas Chandra applicant on certain terms and conditions by the order of the Magistrate dated 1681989. However, Suryanath Yadav felt aggrieved and filed a revision before the Sessions Judge which came to be finally decided by the IV Additional Sessions Judge, Azamgarh, on 2891989 whereby he has set aside the order of the Magistrate dated 1681989 allowing the application of Suryanath Yadav on fresh terms and conditions.

3. The finding recorded by the revisional court is that the registration number of the Vehicle in question had been changed and, therefore, he passed the impugned order. Subhas Chandra has preferred the present revision against the order of the IV Additional District Judge dated 2891989.

4. The grounds taken in the memo of revision is that the police has already submitted a charge sheet against the accused under Section 379/411, I, P, C.

concerning the vehicle in question and, therefore, the order passed by the Magistrate should be deemed to have been passed in exercise of the powers conferred by Section 451, Cr. P. C. which has been wrongly held by the lower revisional court as an order under Section 457, Cr. P. C. and, therefore, the order of the Magistrate should be restored.

5. When the charge sheet has already been filed on the prima facie proof of the allegations of the informant to be true, there might not have been enough justification for the Sessions Judge to direct the release of the vehicle in favour of the accused. Moreover, the discretion which was exercised by the Magistrate initially was neither illegal nor erroneous. The court below shall hold the trial expeditiously where after the custody of the vehicle shall abide by the final orders of the trial court.

6. In view of the aforesaid discussion and with the above noted direction, this revision is allowed, the order of the IVth Additional Sessions Judge, Azamgarh, dated 2891989 is set aside and that of the Magistrate dated 1681989 is restored. Interim order dated 16101989 is vacated.

Revision allowed.