

(2011) 09 UK CK 0063

In the Uttarakhand High Court

Case No : Criminal Revision No's. 28 and 30 of 2009 and SPLA No. 5 of 2009

Suresh Kumar Puri

APPELLANT

Vs

State of Uttarakhand and Another
 State of
Uttrakhand Vs Balbir Singh
 Suresh Kumar Puri Vs
State of Uttarakhand and Others

RESPONDENT

Date of Decision : 09-09-2011

Acts Referred:

Citation : (2011) 09 UK CK 0063

Hon'ble Judges : Servesch Kumar Gupta, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Servesch Kumar Gupta, J.—The aforementioned five Criminal Revisions preferred by the private complainant and three connected Special Leave to Appeal petitions preferred by the State entail the same controversy.

2. Sri Sanjeev Agarwal, learned Counsel for the accused persons/Respondents, has come from Delhi pressing the Miscellaneous Applications No. 1055/2011 and 1056/2011 filed by him in Criminal Revision No. 28/2009.

3. Briefly put, the controversy involved in these cases is that CB-CID, after conducting the investigation, filed chargesheets against the accused persons, viz., Sri Balbir Singh, Sri Anil Pandhi, Sri Suryamani, Smt. Nirja Pandhi, Sri Suresh Chand, Smt. D.P. Singh, Sri Vimal Sharma and Sri Harish Sharma. Thereafter Chief Judicial Magistrate, Dehradun levelled the charges against all these accused persons vide order dated 10.6.2008. The same was challenged before the Sessions Judge, Dehradun in Criminal Revisions No. 65/2008, 70/2008, 84/2008, 88/2008 and 120/2008. The learned Sessions Judge, Dehradun, vide his common judgment and order dated 25.10.2008/22.11.2008, allowed the aforesaid criminal revisions, and set aside the order of the CJM, Dehradun dated 10.6.2008 with the result that all the accused persons stood discharged. Against this judgment and order, the private complainant/informant

Sri Suresh Kumar Puri has preferred the aforementioned Criminal Revisions, whereas the State has filed Special Leave to Appeal petitions (supra) before this Court.

4. It is contended on behalf of the learned Counsel for the revisionist that the only intention of the accused Respondents is to somehow linger on the proceedings of these revisions and connected appeals on one pretext or the other so that the material witnesses, who are at the fag end of their life, may breathe their last and could not get an opportunity to depose themselves before the trial court. When this attitude of the accused Respondents was brought to the notice of this Court, then on 26.11.2010, this Court ordered to send back the lower court record and further directed the trial court to proceed with the matter as per law.

5. Learned Counsel for the revisionist has also drawn the attention of this Court towards the interim order dated 25.2.2009, passed by this Court, whereby the operation of the judgment and order dated 22.11.2008, which is impugned in the instant cases, was stayed. The learned Counsel contends that staying the operation of the impugned order gives liberty to the trial judge to proceed with the matter. Fortiori, after summoning of the original lower court records from the court below, the accused persons made all efforts to linger on the proceedings with the intention, as stated above.

6. Learned Counsel for the accused Respondents argued that once the accused persons have been discharged, and the order of the concerned Magistrate, levelling charges against the accused, is set aside by the learned Sessions Judge, then the trial court cannot proceed with the ongoing trial. In support of his argument, learned Counsel cited two precedents of the Hon''ble Apex Court rendered in case of Sri Krishna Tyres and Another Vs. J.K. Industries Ltd. and Another, and K. Ramachandran Vs. V.N. Rajan and Another, . In both these precedents, similar controversy was involved, and the Hon''ble Apex Court was of the view that till the fate of these revisions and appeals are determined by this Court, the lower court should not be allowed to proceed with the trial notwithstanding the stay order passed by this Court thereby staying the operation of the impugned judgment and order.

7. Learned Counsel for the revisionist/complainant sought time to file objections against the Miscellaneous Applications No. 1055/2011 and 1056/2011, filed by the accused Respondents. This Court feels that No. useful purpose will be served by filing the objections, rather it will further linger on the already delayed proceedings and will result in wastage of valuable time of the Court in adjudicating such trivial applications. Hence, permission to file objections is denied.

8. Also heard learned Brief Holder for the State and learned Counsel for the accused persons on the petitions seeking Special Leave to Appeal. Leave to appeal is granted in all the three SPLA petitions. Delay in filing the appeals is condoned. Special Leave to Appeal petitions are allowed accordingly. Admit the

appeals. Lower court record will be summoned only when the same would be felt necessary by this Court for adjudication of these matters, and not before that.

9. With the consent of the parties, list all these Criminal Revisions and Government Appeals for final hearing on 10th October, 2011 in the daily cause list. However, keeping in view the principle of law laid down by the Hon''ble Apex Court in the aforementioned precedents, trial court is directed not to proceed with the matter in the meantime.

10. It would be pertinent to observe here that all care be taken to dispose of these revisions and appeals at the earliest possible, wherefor the learned Counsel for the accused Respondents has undertaken not to seek even a single adjournment henceforth.