

Vijay Gautam Vs State of U.P.& Another

Court: Allahabad High Court

Date of Decision: Dec. 19, 2008

Hon'ble Judges: A.K.Roopanwal, J

Final Decision: Dismissed

Judgement

A.K. Roopanwal, J.

This writ petition has been filed against the order dated 23.9.2008 passed by the Additional Sessions Judge, Court No. 1, Muzaffar Nagar, in

Criminal Revision No. 128 of 2008, Amit Pawar Vs. State of U.P., whereby the learned Sessions Judge allowed the revision against the order

dated 11.1.2008 passed by the trial Magistrate and remanded the matter for rededecision.

It appears from the record that an application u/s 156(3) Cr.P.C. was moved by O.P. No. 2 in the Court of C.J.M., Muzaffar Nagar, which was

registered as Application No. 135/132 of 2007. This application was rejected by the concerned Magistrate vide order dated 11.1.2008 against

which Criminal Revision No. 128 of 2008 was preferred by the applicant Amit Pawar (O.P. No. 2) and that revision was allowed vide impugned

order dated 23.9.2008.

I have heard Mr. Dilip Kumar, learned counsel for the petitioner, learned AGA for the State and perused the record.

It has been argued by Mr. Dilip Kumar that the allegations contained in the application u/s 156(3) Cr.P.C. were all incorrect. These were made by

the applicant Amit Pawar being aggrieved by the action of the petitioner. He also argued that the applicant Amit Pawar had no right to move the

application u/s 156(3) Cr.P.C.

I feel that the arguments of Mr. Dilip Kumar can be considered only when it is shown that the petitioner is an aggrieved person to approach this

court.

In AIR 1992 SC 1082, Union of India Vs. W.N. Chaddha, the Apex court has held that the accused has no participation as a matter of right

during the course of the investigation of a case instituted on a police report till the investigation culminates in filing of a final report under section

173(2) Cr.P.C. or in a proceeding instituted otherwise than on a police report till the process is issued u/s 204 Cr.P.C.
This view of the Apex

Court was followed in the Division Bench case of this court reported in 2007(2) ACR 1309, Mathura Prasad Vs. State of U.P. and another.

In view of the above cases, the petitioner cannot be said to be an aggrieved person against the order impugned in this writ petition as nothing has

yet happened against him. He has no locus standi to approach this court and consequently, the arguments advanced above by Mr. Dilip Kumar are

not liable to be considered on merits.

The writ petition is dismissed.