

Mohd.Imran Vs State of U.P.and others

Court: Allahabad High Court

Date of Decision: Oct. 14, 2008

Acts Referred: Criminal Procedure Code, 1973 (CrPC) â€” Section 482
Penal Code, 1860 (IPC) â€” Section 201, 302

Hon'ble Judges: Syed Nazim Husain Zaidi, J

Final Decision: Allowed

Judgement

S.N.H. Zaidi, J.

Heard the learned Counsel for the applicant and the learned AGA for the State and perused the material on record.

2. This application under section 482, Cr.P.C. has been filed for quashing the proceedings relating to the case crime No. 110/06 under sections

302 and 201 IPC Police Station Kareilly District Allahabad, State v. Mohd. Imran pending against the applicant in the Court of Judicial Magistrate,

Court No.1/Juvenile Court, Allahabad.

It has been contended by the learned Counsel for the applicant that the chargesheet for the offences of sections 302 and 201 IPC was filed against

four persons, namely, Smt. Nuzhat Fatima alias Mahjabeen, Sammu, Siraj and applicant Mohd. Imran but since applicant Mohd. Imran was

juvenile, therefore, his case was separated and the Sessions Trial No. 564/07 was proceeded against the remaining accused persons. The case of

the applicant is pending before the Juvenile Court/Judicial Magistrate, Court No. 1, Allahabad whereas S.T, No. 564/07, State v. Smt. Nuzhat

Fatima alias Mahjabeen and others has been decided by the Additional Sessions Judge, Court No. 6, Allahabad on 31.7.2008, wherein the

accused persons have not been found guilty and have been acquitted. Some of the prosecution witnesses have not supported the prosecution case

and some have not been found trustworthy. It has also been submitted that the case of the applicant is on the identical footing and the very same

evidence would be adduced by the prosecution against the applicant. The credibility of those witnesses has already been found doubtful and no

useful purpose would be served in prolonging the proceedings against the applicant. In the given circumstances, principle of stare decisis is

applicable and conviction of the accused applicant cannot be procured. In that regard reliance has been placed on the case of Darshan Singh and

others v. State of U.P., 2006 (54) ACC 166 (HC) of this Court wherein it has been held by this Court that when some of the accused have been

acquitted on the same evidence, admittedly there is no prospect of the case ending in conviction, hence no fruitful purpose would be gained in

continuing the trial and criminal proceedings is liable to be quashed applying the principle of stare decisis.

3. In another decision of Manoj v. State of U.P., 2004 (49) ACC 302 (HC) this Court has ruled that since two accused were acquitted and the

same evidence is to be adjudicated for the second time, it will only amount to wastage of time. Admittedly, no conviction can be procured and

there is no prospect of the case ending in conviction against the present applicant, it will only be a hollow formality of completing the procedure of

the trial. It is almost certain that the trial will meet the same fate and, therefore, entire exercise of going through the rigmarole of trial will be

rendered futile, in such a case proceedings can be quashed.

Looking to the facts and circumstances of this case and after perusing the judgment dated 31.7.2008 in Sessions Trial No. 564/07, I am convinced

that this proceedings against applicant Mohd. Imran should be quashed applying the principle of stare decisis.

4. For the reasons discussed above, the application under section 482 Cr.P.C. is allowed. The proceedings of case crime No. 110 of 2006, State

v. Mohd. Imran, under sections 302 and 201 IPC, Police Station Kareli District Allahabad pending before the Court of Judicial Magistrate,

Court No. 1/Juvenile Court Allahabad are hereby quashed.

Application Allowed.