

IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr. Appeal (S.J.) No. 567 of 2023

1. Chandra Bhushan			
2. Kunal Kishore @ Kunal Kishori			Appellants
Versus			
1. The State of Jharkhand			
2. Sarju Paswan			 Respondents

Coram: HON'BLE MR. JUSTICE RATNAKER BHENGRA

For the Appellants	: Mr. B. M. Tripathi, Sr. Advocate
	: Mr. Rahul Lamba, advocate
For the State	: Mr. Vandana Bharti, Addl.P.P
For the Res. No. 2	: Mr. Navneet Toppo. Advocate

Order No. 04 Dated- 11.12.2023

On call, all the counsels have appeared.

Learned senior counsel for the appellants has submitted that as per the decision of the Full Bench of the Hon'ble Allahabad High Court given in the case of *Satyendra and Another v. The State of U.P.* it has been observed and strikes down the statutory period of 180 days under Section 14(A)(3) of the SC/ST (Prevention of Atrocities) Act, 2015.

Learned senior counsel for the appellants has further submitted that as per the judgment of the Full Bench in the case of *Vishnu Behari Tiwari v. Union of India and Others* wherein, it has been observed in paragraph 65 as follows:-

“We declare that the second proviso to Section 14A(3) clearly violative of both Articles 14 and 21 of the Constitution. It is not just manifestly arbitrary, it has the direct and unhindered effect of taking away the salutary right of a first appeal which has been recognized to be an integral facet of fair procedure enshrined in Article 21 of the Constitution. The absence of discretion in the Court to consider condonation of delay even where sufficient cause may exist renders the measure wholly capricious, irrational and excessive. It is consequently struck down.”

Further on the question of applicability of the decision or order of the Hon'ble Allahabad High Court, counsel for the appellant has cited a judgment in the case of *Kusum Ingots & Alloys Ltd. v. Union of India* reported in (2004) 6 SCC 254 which reads as under:

“22. The Court must have the requisite territorial jurisdiction. An order passed on a writ petition questioning the constitutionality of a parliamentary Act, whether interim or final keeping in view the provisions contained in clause (2)

of Article 226 of the Constitution of India, will have effect throughout the territory of India subject of course to the applicability of the Act”.

Learned counsel for the respondent no. 2 submits that the counter affidavit is ready and the same will be filed today itself. Moreover, he is relying on two judgments on the issue of maintainability which he would also like to place on the next date of hearing.

In view of his submission, put up this case on 08.01.2024.

Learned senior counsel for the appellants is also directed to serve a copy of the interlocutory application upon the respondent no. 2 as well as the learned counsel for the State.

Till then, interim relief granted vide order dated 16.10.2023 shall continue.

(Ratnaker Bhengra, J.)