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Cr1.A.No. 51-60 OF 1998
ITEM NO. 101COURT NO.7 SECTION II

SUPREME COURT OF INDIA
RECORD OF PROCEEDINGS

CRIMINAL APPEAL NO.51-60/1998

Supdt.of Police,CBI,N.Delhi

...

APPELLANT (S)

VERSUS

Radha Mohan Dwivedi & Ors.

...

RESPONDENT (S)

(With appln.for vacating stay and with prayer for I.R)

Date :22

04/2004

This Appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE K.G. BALAKRISHNAN

HON'BLE MR. JUSTICE B.N. SRIKRISHNA

For Appellant (s)Mr. Vijay Hansaria,Sr.Adv.

Mr. A.K.Srivastava,Adv.

Mr. P.Parmeshwaran,Adv.

For Respondent (s)Ms. Rachana Srivastava,Adv.

Mohd. Taiyab Khan,Adv.

Mr.R.P.Mehrotra,Mrs.D.R.Mehrotra and

Mr. G.Kabra,Advs.

UPON hearing counsel, the Court made the following

O R D E R

Heard the learned counsel for the parties for half an hour.

The appeals are disposed of in terms of signed
order.

(Y.P.Dhamija)

AR-cum-PS

(Veera Verma)

Court Master

Signed order is placed on the file.

IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 51-60 OF 1998

Supdt.of Police,CBI,N.Delhi

...
APPELLANT (S)

VERSUS

Radha Mohan Dwivedi & Ors.

...
RESPONDENT (S)

O R D E R

These are appeals preferred by the CBI against an order passed by the learned Single Judge of the Allahabad High Court. In the year 1994 the people of District Kumaun and Garhwal region of U.P. started an agitation for the formation of a separate State. The agitation continued for long period and a group of persons consisting of men, women and children decided to have a rally in Delhi. On their way to Delhi, while passing through the area within the jurisdiction of Rampur Tiraha in Distt. Muzaffarnagar, U.P. police party prevented the agitators from proceeding further, and it seems that there was a confrontation between the police and the agitators. It is alleged that the police officials attacked the agitators and some of the women participants of the agitators were raped and molested by the police party. In a public interest litigation filed before the Allahabad High Court, Division Bench directed the CBI to investigate the case and the Division Bench further directed that the trial for offences within the districts of Kumaun region is to be held by the Court in Sessions Division at Nainital and for the offences within the Districts of Garhwal region, Haridwar and Muzaffarnagar, to be held in the Court in Sessions Division at Dehradun and where a Special Court does not exist, in any of the two Sessions Divisions, as above, it shall be established by the State of U.P. in consultation with the High Court. When the trial was to begin at Dehradun and Nainital the respondents herein filed a Transfer Petition to transfer the cases from Haridwar to Nainital and respondents alleged that in Dehradun and Nainital that there will not be any fair trial. By the impugned judgment, the learned Single Judge directed that the cases relating to the incident pending before the Special Magistrate, CBI Dehradun be withdrawn and transferred to the file of Special Magistrate, CBI, Lucknow, who will conduct the trial at the district Court campus at Moradabad. This is challenged before us.

Incidentally it may be mentioned that the direction of the Division Bench was challenged by this Court in A.K.Singh and Ors. Vs. Uttarakhand Jan Morcha & Ors. (1999) 4 SCC 476. The various directions issued by the Division Bench were set aside and now the question before us is which Court shall try the cases wherein the CBI has filed final report. The new State Uttarakhand has come into existence in 2000 and allegation regarding the surcharged atmosphere and the apprehension regarding the fair trial are not in existence. Having regard to the facts and circumstances of the case, we are of the view that the trial can be held in accordance with law under the provision of Cr.P.C. and courts having the jurisdiction on the basis of the provisions of the Cr.P.C. can start the trial of these cases. The incident happened within the jurisdiction of Muzaffarnagar. As there is no Special Judge at Muzaffarnagar to try the cases investigated by the CBI, the High Court of Allahabad shall pass appropriate direction either to empower one of the Additional District Judges/Fast Track Courts for trial of these cases wherein CBI has filed the final report. The records available with the Registry shall be sent to the Principal District Judge, Muzaffarnagar, who shall make available the records to the Judge who is appointed for this purpose.

A copy of the order be sent to the Registrar General of the Allahabad High Court for further action in the matter.

The appeals are disposed of.

.....J.
(K.G. BALAKRISHNAN)

.....J.
(B.N. SRIKRISHNA)

New Delhi,
April 22, 2004.