

Court No. - 16

Case :- CRIMINAL REVISION No. - 194 of 2021

Revisionist :- State of U.P.

Opposite Party :- Chief Judicial Magistrate, Lucknow & Anr.

Counsel for Revisionist :- Govt. Advocate

Hon'ble Dinesh Kumar Singh, J.

Issue notice to respondent no.2.

Steps be taken by tomorrow.

Dasti notice is also permitted for service on respondent no.2.

The present revision under Section 397 read with Section 401 Cr.P.C. has been filed impugning the order dated 25.02.2021 passed by Chief Judicial Magistrate, Lucknow in Crl. Misc. Case No.1566 of 2021, under Section 156(3) Cr.P.C., Police Station Vibhuti Khand, Lucknow.

Learned Magistrate vide impugned order dated 25.02.2021 directed the S.H.O. Hazratganj, District Lucknow to register a case under appropriate sections against Sanjeev Suman, I.P.S. D.C.P., East, Lucknow, Chandrashekhar Singh, S.H.O., Police Station Vibhuti Khand and other police personnel in respect of an incident dated 14/15.02.2021 wherein the accused Girdhari Vishwakarma @ Kanahiya @ Doctor s/o Daggar, r/o Lakhanpur, Police Station Cholapur, District Varanasi was killed.

There are three other proceedings which are pending before three courts, namely, a Complaint Case No.169 of 2021 in the Court of Sessions Judge, Lucknow, Writ Petition No.5640 (M/B) of 2021 before this Court as well as Writ Petition (Criminal) No.101 of 2021 before the Supreme Court.

Sri Vinod Shahi, Additional Advocate General assisted by Sri Anurag Verma, learned A.G.A. has submitted that the impugned order passed by the learned Magistrate is against the facts and law as laid down by Hon'ble Supreme Court in the case of **Anil Kumar & others Vs. M.K. Aiyappa, 2013 (10) SCC 705** and **T.T. Antony Vs. State of Kerala & others, 2001 (6) SCC 181**. It has further been submitted that the alleged offence has been committed during the course of discharge of public duty by the public servants and without sanction from the competent authority an order under Section 156(3) Cr.P.C. could not have been passed as per law laid down in the aforesaid two judgments of Hon'ble Supreme Court. It is also submitted that

from the report of the concerned police station, it is evidently clear that the deceased got killed while he tried to fled away from the custody of the police personnel after snatching pistol from one police personnel and firing at them. It is also submitted that one bullet hit Chandrashekhar Singh, S.H.O. Police Station Vibhuti Khand on his chest, but he could escape as he was wearing bulletproof jacket. There are also other injured police personnel and in defence a few bullets were fired at the deceased which hit him and immediately, after he was immobilized, he was taken to nearby hospital, namely, Ram Manohar Lohiya, Institute of Medical Sciences, Gomti Nagar, Lucknow where he had succumbed to his injuries during the course of treatment.

Considering the aforesaid submissions, it would be appropriate to stay the operation of the impugned order dated 25.02.2021 passed in Crl. Misc. Case No.1566 of 2021, under Section 156(3) Cr.P.C. till further orders.

List this case on 15.03.2021.

Order Date :- 2.3.2021

Anand Sri./-