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Court No. - 32

Case :- CRIMINAL MISC. WRIT PETITION No. - 9392 of 2020

Petitioner :- In Re Maulana Ala Hadarmi And Others

Respondent :- Union Of India And Others

Counsel for Petitioner :- Ashutosh Kumar Sand, Manish Goyal (Senior Adv.)

Hon'ble Shashi Kant Gupta, J.

Hon'ble Shamim Ahmed, J.

1. This petition/application has been filed on behalf of the State of U.P. in pursuance of the order dated 6.8.2020 passed by the Apex Court with a prayer to transfer the cases registered against the members of Tablighi Jamat in different districts within their concerned zones or pass such other or further orders, which this Court may deem fit.

2. Heard Sri Manish Goyal, Additional Advocate General/Senior Advocate, Mr. Ashutosh Kumar Sand, learned Additional Government Advocate-Ist, appearing on behalf of the State, Mr. Md. Zahirul Islam, Mr. Adeel Ahmad Khan, Mr. Syed Ahmad Naseem, and Mr. Amjad Siddiqui holding brief of Sri Mohd. Amir Naqvi, learned counsel for the accused/members of the Tablighi Jamat and perused the record.

3. From a perusal of the record, it transpires that criminal prosecution was launched against the foreigners who had come to attend the conference of Tablighi Jamat held at New Delhi

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for violating the pandemic guidelines and committing penal offences. A petition was filed by Maulana Ala Hadrami and others before the Apex Court challenging such criminal prosecutions instituted against the members of Tablighi Jamat. An Interim Application No. 84676 of 2020 was filed by intervenors before the Apex Court raising two fold grievances. One of the grievances raised was that a multitude of criminal cases are pending against members of Tablighi Jamat across the State of Uttar Pradesh and concerned Courts are granting bails imposing different conditions, and there is no uniformity in that regard. Second grievance was that due to pendency of proceedings in different Courts, the accused in the concerned cases are facing logistical difficulties for which reason, as the cases involving same issue, need to proceed for inquiry/trial before one Court in the State of Uttar Pradesh.

4. The Apex Court vide order dated 4.9.2020 disposed of the said application on the same terms as done in the case of other accused facing prosecution in different districts throughout the State of Bihar vide order dated 1.9.2020.

5. Mr. Manish Goyal, learned Additional Advocate General appearing on behalf of the petitioners has placed a copy of the aforementioned order dated 4.9.2020 passed by the Apex Court on the Interim Application No. 84676 of 2020 in Writ Petition (Civil) No. 600 of 2020 (Maulana Ala Hadrami & Ors. Vs. Union of India & Anr.). Relevant portion of the same is quoted hereinbelow:-

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“Considering the above, we deem it appropriate to dispose of this application on the same terms as done in the case of applicant(s) facing prosecution in different districts through out the State of Bihar vide order dated 01.09.2020. In other words, the prosecution in the present set of cases (State of Uttar Pradesh) shall forthwith move a formal application before the Principal Seat of the Allahabad High Court for appropriate relief(s), which we are certain would be considered in light of and in terms of order dated 06.08.2020 in reference to similar cases in the N.C.T. of Delhi. The application to be moved by the State of Uttar Pradesh may be dealt with preferably by the senior most Judge of the Allahabad High Court, taking up the criminal assignment, expeditiously. After the application is moved by the State of Uttar Pradesh and is disposed of by the High Court, the trial Court(s) shall endeavour to dispose of the concerned criminal cases within eight weeks from the date the same are transferred to such Court(s). We place on record that the parties have assured this Court that complete cooperation will be extended to the trial Court(s) for expeditious disposal of pending criminal cases including to participate in the proceedings through video conferencing.

If the State of Uttar Pradesh fails to move a formal application, as aforesaid, it will be open to the applicant(s) herein either individually or together to move a formal application before the Principal Seat of the High Court of Allahabad, after one week from today and such application, if filed, be considered by the Court expeditiously, preferrably within one week from the date of its institution.

Copy of this order be forthwith forwarded to the Registrar General of the High Court of Allahabad, for information and necessary action.”

6. In paragraph 5 of the application/petition, it has been stated that large number of cases have been registered against the members of Tablighi Jamat in different districts of State of Uttar Pradesh. It has been further stated that in order to maintain law and order, the State of Uttar Pradesh has been divided into eight zones. Each zone comprises a number of districts. For ready reference, Paragraph 5 of the petition

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mentioning the names of the zones comprising a number of districts is quoted hereinbelow:-

| Sl. No. | Zone | District |
|---------|------------------|--|
| 1. | Agra | i. Agra ii. Firozabad iii. Mathura iv. Mainpuri v. Aligarh vi. Hathras vii. Kasganj viii. Etah |
| 2. | Bareilly | i. Bareilly ii. Badaun iii. Pilibhit iv. Shahjahanpur v. Moradabad vi. Amroha vii. Bijnor viii. Rampur ix. Sambhal |
| 3. | Gorakhpur | i. Basti ii. Siddharth Nagar iii. Santkabir Nagar iv. Bahraich v. Balrampur vi. Gonda vii. Shrawasti viii. Deoria ix. Kushinagar x. Maharajganj |
| 4. | Kanpur | i. Jhansi ii. Jalaun iii. Lalitpur iv. Kanpur Nagar v. Kanpur Dehat vi. Etawah |

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| | | vii. Fatehgarh viii. Kannauj ix. Auraiya |
| 5. | Lucknow | i. Lucknow ii. Ambedkar Nagar iii. Amethi iv. Ayodhya v. Barabanki vi. Sultanpur vii. Hardoi viii. Kheeri ix. Seetapur x. Unnao |
| 6. | Meerut | i. Meerut ii. Baghpat iii. Bulandshahar iv. Ghaziabad v. Hapur vi. Gautam Budh Nagar vii. Muzaffarnagar viii. Saharanpur ix. Shamli |
| 7. | Prayagraj | i. Prayagraj ii. Banda iii. Chitrakoot iv. Hamirpur v. Mahoba vi. Fatehpur vii. Kaushambi viii. Pratapgarh |
| 8. | Varanasi | i. Varanasi ii. Azamgarh iii. Ballia iv. Mau v. Mirzapur vi. Sant Ravidas Nagar vii. Sonbhadra viii. Chandauli ix. Ghazipur x. Jaunpur |

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7. Today when the matter was taken up, a supplementary affidavit has been filed on behalf of the State wherein it has been stated that out of the total 188 criminal cases registered against the members of Tablighi Jamat, 15 cases registered in District Sultanpur, Meerut and Jaunpur have already been decided by the concerned Magistrates and as such, at present only 175 cases are pending against them.

8. The chart given in Paragraph 6 of the aforesaid Supplementary Affidavit shows the number of cases, number of accused and number of cases decided in various districts. For ready reference, Paragraph 6 of the Supplementary Affidavit is quoted hereinbelow:-

| Sl. No. | Zone | District | Number of Cases | Number of Accused | Number of Cases Decided |
|---------|------------------|--|---|---|-------------------------|
| 1. | Agra | i. Agra ii. Firozabad iii. Mathura iv. Mainpuri v. Aligarh vi. Hathras vii. Kasganj viii. Etah | --- --- --- --- 1 --- --- --- | --- --- --- --- 2 --- --- | |
| 2. | Bareilly | i. Bareilly ii. Badaun iii. Pilibhit iv. Shahjahanpur v. Moradabad vi. Amroha vii. Bijnor viii. Rampur ix. Sambhal | --- --- --- 1 1 --- 1 --- --- | --- --- --- 9 8 --- 8 --- --- | |
| 3. | Gorakhpur | i. Basti ii. Siddharth Nagar iii. Santkabir Nagar iv. Bahraich v. Balrampur | --- --- --- 2 --- | --- --- --- 14 --- | |

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|----|------------------|---|---|---|---------|
| | | vi. Gonda vii. Shrawasti viii. Deoria ix. Kushinagar x. Maharajganj | --- | --- | |
| 4. | Kanpur | i. Jhansi ii. Jalaun iii. Lalitpur iv. Kanpur Nagar v. Kanpur Dehat vi. Etawah vii. Fatehgarh viii. Kannauj ix. Auraiya | --- | --- | |
| 5. | Lucknow | i. Lucknow ii. Ambedkar Nagar iii. Amethi iv. Ayodhya v. Barabanki vi. Sultanpur vii. Hardoi viii. Kheeri ix. Sitapur x. Unnao | 3 --- --- --- --- 11 --- --- 1 --- | 23 --- --- --- --- 10 --- --- 10 --- | Decided |
| 6. | Meerut | i. Meerut ii. Baghpat iii. Bulandshahar iv. Ghaziabad v. Hapur vi. Gautam Budh Nagar vii. Muzaffarnagar viii. Saharanpur ix. Shamli | 3 3 2 3 1 --- 1 4 1 | 20 28 16 17 19 --- 12 57 9 | 2 Cases |
| 7. | Prayagraj | i. Prayagraj ii. Banda iii. Chitrakoot iv. Hamirpur v. Mahoba vi. Fatehpur vii. Kaushambi viii. Pratapgarh | 2 --- --- --- --- --- --- --- --- | 16 --- --- --- --- --- --- --- --- | |
| 8. | Varanasi | i. Varanasi ii. Azamgarh iii. Ballia iv. Mau v. Mirzapur vi. Bhadohi vii. Sonbhadra viii. Chandauli | --- --- --- --- --- 1 --- --- | --- --- --- --- --- 11 --- --- | |

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| | | ix. Ghazipur x. Jaunpur | --- 2 | --- 15 | Decided |
|--|--|----------------------------|----------|-----------|---------|

9. A detailed chart showing the names of the accused and zone-wise details of the criminal cases pending in various districts has been annexed as Annexure No. 2 to the supplementary affidavit.

10. Sri Manish Goyal, learned counsel for the petitioners stated that since the State of Uttar Pradesh is a vast State and a large number of cases are pending against the accused, who are members of Tablighi Jamat, it would be very impractical and difficult to conduct the trial of the aforementioned cases in only one Court. It was further submitted that the Apex Court was also fully aware about the difficulties of the prosecution agency, as such, the Apex Court in its order dated 4.9.2020 has not specifically directed that the trial be conducted in a single Court, but instead has specifically used the words “trial Court (s)” giving discretion to this Court to transfer the cases to one or more Courts, as such, it has been prayed that the cases which are pending in various districts be transferred to at least 2 or 3 districts so that it could be decided in accordance with the directions passed by the Apex Court. In order to buttress his submissions, learned counsel for the petitioners further referred to the letter dated 5.9.2020, of Ms. Garima Prashad, learned Standing Counsel, State of Uttar Pradesh, who appeared on behalf of the State of Uttar Pradesh before the Apex Court at the time of hearing in the aforementioned Writ Petition No. 600 of 2020. In her aforementioned letter dated

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5.9.2020 written to the State Government, she has specifically stated that the Apex Court has also given liberty to the State to request the High Court for Zone-wise consolidation or any other manner which the State may deem fit in the circumstances, as such, it was advised by the Standing Counsel that appropriate application be urgently filed by the State before the High Court seeking Zone-wise consolidation of cases, and hearing by video conferencing to expedite the trial.

11. Thus, it has been contended by the learned counsel for the petitioners that all the cases pending against the accused persons, who are members of the Tablighi Jamat, may be transferred to at least 2 or 3 districts so that the matter may be decided in accordance with the directions given by the Apex Court.

12. Learned counsel appearing on behalf of the accused persons have not objected to the contention so made by the learned counsel for the petitioners and has readily agreed that all the cases pending against the members of Tablighi Jamat may be transferred to at least 3 districts for expeditious disposal of the cases.

13. Thus, considering the facts and circumstances of the case and also keeping in view the suggestions made by Sri Manish Goyal, learned Additional Advocate General, it is directed that the cases pending in Kanpur, Gorakhpur, Prayagraj, Varanasi and Lucknow Zones be transferred to Chief Judicial Magistrate, Lucknow. Likewise cases pending in Agra and Meerut Zones be transferred to Chief Judicial Magistrate, Meerut. Lastly, the cases pending in Bareilly Zone be transferred to Chief Judicial

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Magistrate, Bareilly. The names of different districts which fall under the aforesaid zones have already been mentioned in the earlier part of this judgment.

14. Accordingly, we hereby issue a direction to the Chief Secretary, State of Uttar Pradesh to transfer the criminal cases pending against the members of Tablighi Jamat in the manner as provided in the preceding paragraph.

15. In view the directions issued by the Apex Court in its order dated 4.9.2020, we issue directions to the State as well as to the respective Courts for disposal of all the aforementioned cases as follows:-

(i). The records of all the criminal cases pending against the members of Tablighi Jamat in different District Courts be transferred to their respective Courts as indicated hereinabove preferably within a period of 2 weeks from today.

(ii) All the criminal cases pending against the members of Tablighi Jamat would be heard and decided by the respective Chief Judicial Magistrates as indicated hereinabove within 8 weeks from the date of receipt of the record by the concerned Courts.

(iii) All the matters would be heard as far as possible by the concerned Courts through video conferencing as the Apex Court while deciding the matter has categorically recorded the assurance of the parties that complete cooperation will be extended to the trial Courts for expeditious disposal of pending criminal cases including to participate in the proceedings through video conferencing.

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16. With this observation, this writ petition stands finally **disposed of.**

17. Registry of this Court is directed to forward a copy of this order to the Chief Secretary, Government of Uttar Pradesh, Lucknow, concerned District Judges, concerned Courts as well as District Magistrates for information and necessary compliance.

18. Registrar General is directed to monitor the progress of the aforementioned cases transferred to the Chief Judicial Magistrates, Lucknow, Meerut and Bareilly and submit its report within a period of 3 months to the Hon'ble The Chief Justice.

Order Date :- 30.9.2020

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