

Court No. - 88

Case :- CRIMINAL APPEAL No. - 729 of 2022

Appellant :- Vikram Singh

Respondent :- State of U.P. and Another

Counsel for Appellant :- Santosh Kumar Tiwari, Neeraj Kumar Pandey

Counsel for Respondent :- G.A., Pankaj Kumar Singh

Hon'ble Sanjay Kumar Singh, J.

1. On the matter being taken up, learned Additional Government Advocate for the State of U.P. submits that record of this case is not available due to major fire broke out on 17.07.2022 in the office of Advocate General at Prayagraj, in which most of the records have been reduced to ashes. It also submitted that learned counsel for the appellant despite knowing about the aforesaid incident, did not provide one additional copy of paper book to the office of Government Advocate and prayed for adjournment of the case for a day.

2. On putting query that today in how many cases records are not available, learned A.G.A. informed the Court that today 329 cases are listed in list of fresh cases, out of which records of 289 cases are not available. Similarly, 74 cases are listed in additional cause list, out of which records of 73 cases are not available.

3. On the other hand, learned counsel for the appellant apprised the Court that he has already served one additional copy of the paper book on 27.07.2022 to the office of Government Advocate. It is also submitted that not only before this Court but in other criminal Courts also, same situation exists and no effective steps are being taken by the State in this regard.

4. Having regard to the submissions of learned counsel for the parties, this Court is of the view that it is a very sorry state of affair that today about one month has elapsed from the said incident dated 17.07.2022 but proper functioning in the office of Government Advocate at Prayagraj has not been restored back. Several cases are being adjourned on account of non-availability of records or proper instructions with the State counsel, as a result thereof, litigants are suffering. Learned counsel whose cases are being listed are also facing difficulty on adjournment of the cases due to want of records with the State counsel. On account of said unfortunate incident, request for granting two or three weeks time for reconstruction of records and seeking instructions has already been given to the State, but considering the larger

interest of the litigants and lawyers, such request cannot be accepted for an indefinite period. It is also relevant to mention that it is very difficult for junior/young lawyers to bear additional expenses of getting the whole record photocopied for providing the same to the State.

5. This Court is of the view that additional burden/expenses of reconstruction or photocopy of records should be borne by the State Government by installing photocopier machines or developing some other mechanisms which is the duty of the State. This Court is also of the view that for proper adjudication and just decision of the cases, records and proper instructions within time must have been with the State counsel. Though the learned A.G.A. and Brief Holders, who are appearing before this Court are taking much pain in collecting the records from the learned counsel whose cases are being listed and maintaining the same by making entries, etc. in the separate register in order to assist the Court, but it appears that they are also helpless as they are not aware about the further measure adopted by the State Government in the matter of reconstruction of records, as no written guideline/instruction has been issued by the State in this regard. Even lawyers and Courts are not aware about the efforts made by the State Government in order to handle the situation and ensure the proper functioning.

6. In view of the above, let an affidavit be filed either by the Principal Secretary (Law)/Legal Remembrancer, State of U.P. or by any competent Officer duly authorized by him having full knowledge about the aforesaid issues indicating therein as to what steps/measures have been taken by the State for reconstruction of records and seeking instructions in order to ensure the smooth functioning of the Courts within two days, failing which the Principal Secretary (Law)/Legal Remembrancer, State of U.P. shall appear before this Court in person on the next date of hearing.

7. List this case on 18.08.2022 as fresh for further hearing before this Court.

8. Learned Government Advocate shall communicate this order to the Principal Secretary (Law)/Legal Remembrancer, State of U.P. forthwith.

Order Date :- 16.8.2022

Shubham