

Case :- APPLICATION U/S 482 No. - 2153 of 2024

Applicant :- Mohammad Idris (As Per Prosecution Mohammad Idris Qureshi)

Opposite Party :- State Of U.P. Thru. Prin. Secy. Home, Lko.

Counsel for Applicant :- Mohemmed Amir Naqvi, Abhishek Singh, Ajeet Pratap Singh, Zia Ul Qayuim

Counsel for Opposite Party :- G.A.

Hon'ble Shamim Ahmed, J.

1. Heard Shri Zia Ul Qayuim, learned Counsel for the applicant, Shri Shiv Nath Tilhari, learned A.G.A. for the State-opposite party and perused the material placed on record.

2. The present application under Section 482 Cr.P.C. has been filed on behalf of the applicant, namely-Mohammad Idris seeking quashing of the order dated 19.01.2024, 20.01.2024 passed by learned Court of Additional District & Sessions Judge IIIrd/Special Judge, N.I.A-A.T.S., Lucknow in Sessions Trial No.1064 of 2022 under Sections 417, 120-B, 153-A, 153-B, 295-A, 298, 121-A and 123 I.P.C. and Section 3/5/8 U.P. Prohibition of Unlawful Conversion of Religion Act, 2021 against the applicant/accused and it is further prayed that to direct the aforesaid learned trial court to provide the copy of the electronic evidence demanded by the applicant vide application dated 19.01.2024 in compliance of the Section 207 Cr.P.C. and be further pleased to direct learned trial court not to impose an amicus curiae as an additional counsel upon the applicant/accused and be allowed to be defended by the counsel of his own choice only during the aforesaid trial in the interest of justice.

3. Learned counsel for the applicant submits that the applicant is innocent and has been falsely implicated in the present case due to political rivalry. The applicant is not involved in any such type of activities, as alleged in the F.I.R. and the F.I.R. has been lodged only to defame the image of the applicants and their entire family in the society. He further submits that in the present case F.I.R. was lodged as F.I.R. No.9/2021 on 20.06.2021 at about 11:35 hours at Police Station-ATS-Gomti Nagar, District-Lucknow under Section 420, 120-B, 153-A, 153-B, 295-A and 511 I.P.C. and Section 3/5 of U.P. Prohibition of Unlawful Conversion of Religion Act, 2021 against two named accused persons namely, Mohammad Umar Gautam, Mufti Qazi Jahangi Alam Qasmi and Chairman Islamic Dawah Centre and one unknown person. He further submits that

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investigating agency during the course of investigation on the basis of suspicion whereby, the name of the applicant came into light from the statement of co-accused during their police custody pursuant to which the applicant was arrested and produced before the court on 26.09.2021 and a supplementary chargesheet was filed against him and four other accused persons on 16.12.2022. However, this Hon'ble Court was pleased to grant bail to the applicant vide order dated 07.12.2023 passed in Criminal Appeal No.2937 of 2023.

4. Learned Counsel for the applicant further submits that learned trial court in order to commence the proceedings of the trial proceeded to comply the provisions of Section 207 Cr.P.C. and proposed a copy of the documents to be supplied to the applicant, on which the prosecution was about to rely upon but the same was never supplied to the applicant and he was never allowed to inspect any such document and charges were framed against the applicant and other co-accused persons on 20.12.2022 and thereafter the trial was directed to be proceeded on day to day basis vide order dated 04.01.2024 by the trial court.

5. Learned counsel for the applicant has placed emphasis on Section 3 of the U.P. Prohibition of Unlawful Conversion of Religion Act, 2021 which provides prohibition of conversion from one religion to another religion by misrepresentation, force, fraud, undue influence, coercion and allurement, clearly specifying that conversion on the aforesaid grounds from one religion to another religion is prohibited. False allegations regarding allurement and undue influence for the purposes of mass conversion have been made.

6. Learned counsel for the applicant has also placed emphasis on Section 4 of the U.P. Prohibition of Unlawful Conversion of Religion Act, 2021 which is being quoted here-in-below:-

"4. Person competent to lodge First Information Report-Any aggrieved person, his/her parents, brother, sister, or any other person who is related to him/her by blood, marriage or adoption may lodge a First Information Report of such conversion which contravenes the provisions of Section 3."

7. Learned counsel for the applicant further submits that the embargo under Section 4 as to who can lodge an F.I.R. regarding an offence under Section 3 of the Act, 2021 is absolute. The complainant is neither the aggrieved person, nor his/her parents, brother, sister or any other person, who is related to him/her by blood, marriage or adoption is aggrieved person as provided under Section 4 of the Uttar Pradesh Prohibition of Unlawful Conversion of Religion Act, 2021.

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Complainant just being a personnel of Anti-Terrorist Squad has lodged the instant first information report for gaining his career goodwill amongst other personnel of the force, although he is not competent to lodge the present FIR as per the provisions of Section 4 of the Act 2021.

8. Learned counsel for the applicant further submits that the applicant is not involved in activity of attempt to convert, either directly or otherwise, any other person from one religion to another by use or practice of misrepresentation, force, undue influence, coercion, allurement or by any fraudulent means and they have been falsely implicated in the present case and the complainant has no locus to lodge the present F.I.R. as provided under Section 4 of the Act, 2021, thus, he submits that the applicant has made out a case for some interim relief, therefore, some interim protection may be granted by this Court while issuing notices to the opposite parties.

9. In view of the above, the matter requires consideration on fact and law both.

10. Learned A.G.A. has accepted notice on behalf of State-opposite party. He prays for and is granted four weeks' time to file counter affidavit. Two weeks' time thereafter shall be available to learned Counsel for the applicant for filing rejoinder affidavit.

11. Accordingly, list/put up this case on 22.07.2024 before appropriate Bench.

12. Till the next date of listing, the further proceedings in pursuance to the order dated 19.01.2024, 20.01.2024 passed by learned Court of Additional District & Sessions Judge IIIrd/Special Judge, N.I.A-A.T.S., Lucknow in Sessions Trial No.1064 of 2022 under Sections 417, 120-B, 153-A, 153-B, 295-A, 298, 121-A and 123 I.P.C. and Section 3/5/8 U.P. Prohibition of Unlawful Conversion of Religion Act, 2021 shall be kept in abeyance so far it relates to the present applicant.

Order Date :- 5.3.2024

Piyush/-

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Court No. - 16

Case :- APPLICATION U/S 482 No. - 2153 of 2024

Applicant :- Mohammad Idris (As Per Prosecution Mohammad Idris Qureshi)

Opposite Party :- State Of U.P. Thru. Prin. Secy. Home, Lko.

Counsel for Applicant :- Mohemmed Amir Naqvi, Abhishek Singh, Ajeet Pratap Singh, Zia Ul Qayum

Counsel for Opposite Party :- G.A.

Hon'ble Shamim Ahmed, J.

Order on C.M. Application No. IA/2/2024

Put up alongwith record on 29.03.2024.

Order Date :- 21.3.2024

Saurabh

Court No. - 27

Case :- APPLICATION U/S 482 No. - 2153 of 2024

Applicant :- Mohammad Idris (As Per Prosecution Mohammad Idris Qureshi)

Opposite Party :- State Of U.P. Thru. Prin. Secy. Home, Lko.

Counsel for Applicant :- Mohemmed Amir Naqvi, Abhishek Singh, Ajeet Pratap Singh, Zia Ul Qayuim

Counsel for Opposite Party :- G.A.

Hon'ble Shamim Ahmed, J.

(Order on Criminal Misc. Application No. IA/2/2024; Application for clarification of Order)

1. Heard Shri Abhishek Singh alongwith Shri Zia Ul Qayuim, learned Counsels for the applicant, Shri Shiv Nath Tilhari, learned A.G.A-I for the State-opposite party and perused the material placed on record.
2. The present application has been moved on behalf of the applicant, namely-Mohammad Idris (As Per Prosecution Mohammad Idris Qureshi) seeking clarification of the order dated 05.03.2024 passed by this Court.
3. This Court vide a detailed order dated 05.03.2024 stayed the effect and operation of orders dated 19.01.2024 and 20.01.2024 passed by the trial court, which were impugned by the applicant in the present Application U/S 482 Cr.P.C. The orders dated 19.01.2024 and 20.01.2024 are reproduced hereinunder:-

"दिनांक- 19.01.2024

पत्रावली पेश हुई। पुकारा गया। अभियुक्त मन्नु के विद्वान अधिवक्ता को छोड़कर शेष अभियुक्तगण के विद्वान अधिवक्ता उपस्थित है। विद्वान अधिवक्तागण श्री मो० आमिर नकवी एवं श्री प्रान्शू अग्रवाल के द्वारा एक प्रार्थना पत्र इस आशय का दिया गया है कि आरोप न्यायालय द्वारा बनाया जा चुका है तथा पत्रावली साक्ष्य हेतु आज दिनांक-9.01.2024 को नियत है किन्तु न्यायालय द्वारा पत्रावली में उल्लिखित इलेक्ट्रॉनिक दस्तावेज की कापी अभियुक्तगण को अभी तक उपलब्ध नहीं करायी गयी है। अतः धारा-207, 208 दं०प्र०सं० के अंतर्गत इलेक्ट्रॉनिक दस्तावेज की कापी उपलब्ध कराये जाने की कृपा करें। यह भी कथन किया गया कि पी०डब्ल्यू-3 रामांश द्विवेदी ने यह केस इलेक्ट्रॉनिक साक्ष्य से स्थापित होने की बात कही लेकिन वह इलेक्ट्रॉनिक साक्ष्य अभियुक्तगण को नकल में नहीं दी गई है। अतः उसकी नकल दिलवा दी जाये।

विद्वान लोक अभियोजक ए०टी०एस० श्री नागेन्द्र गोस्वामी ने विरोध करते हुए कथन किया कि अभियोजन साक्षी न्यायालय में उपस्थित है, केवल विलम्बित करने के आशय से उक्त प्रार्थना पत्र प्रस्तुत किया गया है। अभियुक्तगण को सभी नकलें धारा-207 दं०प्र०सं० के स्तर पर न्यायालय द्वारा दी जा चुकी है। उनके द्वारा यह भी कथन किया गया कि जो भी इलेक्ट्रॉनिक साक्ष्य इस साक्षी द्वारा डाउनलोड किया गया है वह यू०आर०एल० के ओपेन सोर्स पर उपलब्ध है, जिसका उल्लेख सी०डी० में है, जिसकी कापी अभियुक्तगण को दी जा चुकी है। उक्त ओपेन सोर्स से अभियुक्तगण कभी भी आनलाइन देख सकते हैं। प्रार्थना पत्र दुर्भावनापूर्ण है, अतः खारिज कर दिया जाये।

सुना तथा पत्रावली का सम्यक अवलोकन किया।

अवलोकन के उपरान्त न्यायालय का विचार है कि सभी नकलों के दिये जाने का उल्लेख और प्राप्त किये जाने का उल्लेख ऑर्डर शीट पर अभियुक्त व उनके विद्वान अधिवक्ता के हस्ताक्षर से पुष्ट हो रहा है। ऐसी दशा में साक्षी के उपस्थित होने पर जिरह न करना तथा नकल की मांग करना मात्र वाद को विलम्बित करना है। यहां यह भी उल्लेख किया जाना सुसंगत होगा कि गवाह न्यायालय समय पर लगभग 10:30 AM बजे जिरह हेतु उपस्थित हो गया था तथा पुकार लगाये जाने पर भी कोई विद्वान अधिवक्ता जिरह के लिए उपस्थित नहीं हुए। पुनः समय 12:30 PM बजे विद्वान अधिवक्ता श्री मो0 आमिर नकवी उपस्थित हुए तथा उनके द्वारा कहा गया कि कुछ जिरह अभी कर लूंगा कुछ जिरह छोड़कर बीच में नमाज पढ़ने चले जायेंगे क्योंकि आज जुमा है। न्यायालय द्वारा इस पर उन्हें यह बताया गया कि न्यायिक कार्य छोड़कर बीच में नमाज पढ़ने की अनुमति दिया जाना उचित नहीं होगा। ऐसा ही कथन अभियुक्त राहुल भोला के विद्वान अधिवक्ता श्री जियाउल जिलानी के द्वारा भी किया गया कि उन्हें भी नमाज पढ़ने बाहर जाना है। इस पर कुछ अभियुक्तगण के अधिवक्ता जो हिन्दू हैं, उनमें से विद्वान अधिवक्ता श्री मुकुल जोशी ने कहा कि वे जिरह करने जा रहे हैं परन्तु बाद में उन्होंने कहा कि वो जिरह नहीं करेंगे तथा एक प्रार्थनापत्र नकलों के लिए देंगे परन्तु उनके द्वारा कोई प्रार्थना पत्र नहीं दिया गया। जिन विद्वान अधिवक्तागण के द्वारा प्रार्थना पत्र दिये भी गये हैं वे लंच के बाद समय 02:30-03:00 बजे दिये गये।

इस प्रकार येन-केन प्रकारेण इस जिरह की पत्रावली में आज न्यायालय का कीमती समय बर्बाद किया गया है। यह प्रकरण अवैध धर्मान्तरण से सम्बन्धित अभियुक्तगण के विचारण के लिए लम्बित है, जिसमें दिन-प्रतिदिन सुनवाई का आदेश पारित किया गया है। न्यायालय को आशंका है कि ऐसे यदि भविष्य की तिथियों पर जिरह न करके विद्वान अधिवक्तागण बीच में नमाज पढ़ने के लिए न्यायालय कक्ष छोड़कर बाहर जाया करेंगे तो विचारण पूरा नहीं हो पायेगा और इसमें बाधाएं पड़ती रहेगी। सभी विद्वान अधिवक्तागण को यह ध्यान रखना चाहिए कि कार्य ही पूजा है तथा अपने न्यायिक कर्तव्य को सम्मान देना चाहिए। ऐसी दशा में न्यायालय का विचार है कि जिन-जिन अभियुक्तगण की पैरवी मुस्लिम अधिवक्ताओं के द्वारा की जा रही है, उन-उन अभियुक्तगण को अपने द्वारा नियुक्त किये गये विद्वान अधिवक्ता के साथ-साथ न्यायालय की सहायता के लिए एमाइकस क्यूरी भी उपलब्ध करवा दिया जाये। जिससे यदि उनके मुस्लिम अधिवक्ता जिरह छोड़कर नमाज पढ़ने बाहर चले जाये तो एमाइकस क्यूरी के द्वारा जिरह निर्बाध गति से चलता रहे। अतः निम्न आदेश किया जाता है-

आदेश

प्रार्थना पत्र दिनांकित-19.01.2024 द्वारा श्री मो0 आमिर नकवी एवं श्री प्रान्शू अग्रवाल वास्ते नकल खारिज किया जाता है। भविष्य में जो भी प्रार्थनापत्र दिये जायें, वे इस न्यायालय में प्रकीर्ण प्रार्थनापत्र प्रस्तुत करने के निर्धारित समयान्तर्गत दिये जायें। इस पत्रावली में जिन-जिन अभियुक्तगण के विद्वान अधिवक्ता मुस्लिम हैं, उनके साथ-साथ एमाइकस क्यूरी भी नियुक्त कर दिया जाये, जिससे मुस्लिम अधिवक्तागण के न्यायालय छोड़कर बीच में नमाज के लिए जाने पर उक्त जिरह विद्वान एमाइकस क्यूरी के द्वारा होती रहे एवं न्यायिक कार्य में कोई बाधा न पड़े। वास्ते जिरह पत्रावली दिनांक-20.01.2024 को पेश हो।

ह0 अपठनीय

विवेकानन्द शरण त्रिपाठी

विशेष न्यायाधीश एन0आई0ए0/ए0टी0एस0,

लखनऊ।

दिनांक-20.01.2024

पत्रावली प्रस्तुत हुई। पुकारा गया। साक्षी पी0डब्ल्यू-3 रामांश द्विवेदी न्यायालय में जिरह के लिए उपस्थित है। कल दिनांक-19.01.2024 को इस साक्षी के उपस्थित होने के बावजूद भी साक्षी की जिरह नहीं की गई थी, जिसके बारे में आदेश पारित किया गया था कि कतिपय विद्वान अधिवक्ता के द्वारा प्रार्थना पत्र देने के आधार पर जिरह टाल दी गई तथा कुछ विद्वान अधिवक्ता जो मुस्लिम समुदाय से हैं उनके द्वारा जुमें की नमाज के आधार पर साक्षी की जिरह नहीं की गई थी तथा वे अधिवक्ता न्यायालय छोड़कर नमाज पढ़ने चले गये थे, जिससे अभियुक्तगण वकालतनामा होते हुए भी, सम्बन्धित विद्वान अधिवक्ता से बिना पैरवी के न्यायालय में रह गये थे। धारा-304 दं0प्र0सं0 यह प्रावधान करती है कि यदि सत्र न्यायालय के विचारण में कोई अभियुक्त किसी अधिवक्ता से बिना प्रतिनिधित्व के रह जाता है तो उसके लिए राज्य के खर्चे पर अधिवक्ता उपलब्ध करा दिया जायेगा। वर्तमान मामले में विगत आदेश दिनांक-19.01.2024 के अनुक्रम में अभियुक्त मन्नु यादव की पैरवी कुमार आशमा इज्जत के साथ-साथ वरिष्ठ अधिवक्ता श्री रमाशंकर द्विवेदी एमिकस क्यूरी द्वारा की जायेगी तथा अभियुक्त इरफान शेख की पैरवी मो0 फुरकान के साथ-साथ उनके अनुपस्थित रहने या नमाज पढ़ने जाने की स्थिति में श्री राम नारायण तिवारी वरिष्ठ अधिवक्ता के द्वारा की जायेगी। इसी प्रकार मो0 इदरीश कुरैशी व कलीम सिद्दीकी अभियुक्तगण के विद्वान अधिवक्ता मो0 आमिर नकवी के अनुपस्थित रहने या नमाज पढ़ने जाने की दशा में वरिष्ठ अधिवक्ता श्रीमती किरन खन्ना के द्वारा पैरवी की जायेगी।

आज अभियुक्तगण कौशर आलम, प्रसाद रामेश्वर कावरे, धीरज गोविन्द राव, भूप्रियो बन्दो व डा0 फराज के विद्वान अधिवक्ता श्री अभिषेक रंजन के द्वारा प्रार्थना पत्र दिया गया कि अभियोजन साक्षी सं-3 रामांश द्विवेदी ने अपनी मुख्य परीक्षा में जिन इलेक्ट्रॉनिक दस्तावेजों को न्यायालय में दाखिल किये जाने का साक्ष्य दिया है, मुख्य परीक्षा के दौरान उक्त वीडियों को न्यायालय में चलाकर दिखाया नहीं गया है तथा उक्त वीडियो इमेज एवं इंटरव्यू का सम्यक अवलोकन किये बगैर पी0डब्ल्यू-3 से जिरह नहीं की जा सकती। अतः इसकी जिरह डिफर कर दी जाये। न्यायालय का विचार है कि अभियुक्तगण को दिये गये सी0डी0 की नकल में ओपेन सोर्स का उल्लेख किया जा चुका है। वैसे भी यह साक्षी पी0डब्ल्यू-3 रामांश द्विवेदी मात्र डेटा एक्सट्रैक्शन का साक्षी है, जिसने विवेचक के द्वारा उपलब्ध कराये गये इलेक्ट्रॉनिक डायग्नोस्टिक्स से डेटा एक्सट्रैक्ट किया है। गवाह दो दिनों से लगातार आ रहा है एवं आज भी उपस्थित है। विश्वनाथन बनाम रामचन्द्रन नायर 1997(1)क्राइम्स 239 केरल में विधि प्रतिपादित की गई है कि अभियुक्त को साक्षी की जिरह डिफर करवाने का अधिकार प्राप्त नहीं है। इस कारण चूंकि श्री अभिषेक रंजन के द्वारा न्यायालय के समक्ष उपस्थित होकर जानबूझकर गवाह से जिरह नहीं की जा सकी है। अतः इस साक्षी पी0डब्ल्यू-3 से उनके जिरह का अवसर समाप्त किया जाता है। शेष विद्वान अधिवक्तागण द्वारा इस साक्षी से जिरह पूरी की गई है। अभियुक्त मन्नु की ओर से उनके अधिवक्ता की अनुपस्थिति के कारण एमिकस क्यूरी श्री रमाशंकर द्विवेदी के द्वारा जिरह पूरी की गई। वास्ते शेष साक्ष्य पी0डब्ल्यू-4 पत्रावली दिनांक-22.01.2024 को पेश हो।

ह0 अपठनीय
विवेकानन्द शरण त्रिपाठी

विशेष न्यायाधीश एन0आई0ए0/ए0टी0एस0,

लखनऊ।"

4. The order dated 05.03.2024 vide which this Court stayed the effect and operation of the orders dated 19.01.2024 and 20.01.2024 passed by the trial court is reproduced hereunder:-

"1. Heard Shri Zia Ul Qayyum, learned Counsel for the applicant, Shri Shiv Nath Tilhari, learned A.G.A. for the State-opposite party and perused the material placed on record.

2. The present application under Section 482 Cr.P.C. has been filed on behalf of the applicant, namely-Mohammad Idris seeking quashing of the order dated 19.01.2024, 20.01.2024 passed by learned Court of Additional District & Sessions Judge Illrd/Special Judge, N.I.A-A.T.S., Lucknow in Sessions Trial No.1064 of 2022 under Sections 417, 120-B, 153-A, 153-B, 295-A, 298, 121-A and 123 I.P.C. and Section 3/5/8 U.P. Prohibition of Unlawful Conversion of Religion Act, 2021 against the applicant/accused and it is further prayed that to direct the aforesaid learned trial court to provide the copy of the electronic evidence demanded by the applicant vide application dated 19.01.2024 in compliance of the Section 207 Cr.P.C. and be further pleased to direct learned trial court not to impose an amicus curiae as an additional counsel upon the applicant/accused and be allowed to be defended by the counsel of his own choice only during the aforesaid trial in the interest of justice.

3. Learned counsel for the applicant submits that the applicant is innocent and has been falsely implicated in the present case due to political rivalry. The applicant is not involved in any such type of activities, as alleged in the F.I.R. and the F.I.R. has been lodged only to defame the image of the applicants and their entire family in the society. He further submits that in the present case F.I.R. was lodged as F.I.R. No.9/2021 on 20.06.2021 at about 11:35 hours at Police Station-ATS-Gomti Nagar, District-Lucknow under Section 420, 120-B, 153-A, 153-B, 295-A and 511 I.P.C. and Section 3/5 of U.P. Prohibition of Unlawful Conversion of Religion Act, 2021 against two named accused persons namely, Mohammad Umar Gautam, Mufti Qazi Jahangi Alam Qasmi and Chairman Islamic Dawah Centre and one unknown person. He further submits that investigating agency during the course of investigation on the basis of suspicion whereby, the name of the applicant came into light from the statement of co-accused during their police custody pursuant to which the applicant was arrested and produced before the court on 26.09.2021 and a supplementary chargesheet was filed against him and four other accused persons on 16.12.2022. However, this Hon'ble Court was pleased to grant bail to the applicant vide order dated 07.12.2023 passed in Criminal Appeal No.2937 of 2023.

4. Learned Counsel for the applicant further submits that learned trial court in order to commence the proceedings of the trial proceeded to comply the provisions of Section 207 Cr.P.C. and proposed a copy of the documents to be supplied to the applicant, on which the prosecution was about to rely upon but the same was never supplied to the applicant and he was never allowed to inspect any such document and charges were framed against the applicant and other co-accused persons on 20.12.2022 and thereafter the trial was directed to be proceeded on day to day basis vide order dated 04.01.2024 by the trial court.

5. *Learned counsel for the applicant has placed emphasis on Section 3 of the U.P. Prohibition of Unlawful Conversion of Religion Act, 2021 which provides prohibition of conversion from one religion to another religion by misrepresentation, force, fraud, undue influence, coercion and allurement, clearly specifying that conversion on the aforesaid grounds from one religion to another religion is prohibited. False allegations regarding allurement and undue influence for the purposes of mass conversion have been made.*

6. *Learned counsel for the applicant has also placed emphasis on Section 4 of the U.P. Prohibition of Unlawful Conversion of Religion Act, 2021 which is being quoted here-in-below:-*

"4. Person competent to lodge First Information Report-Any aggrieved person, his/her parents, brother, sister, or any other person who is related to him/her by blood, marriage or adoption may lodge a First Information Report of such conversion which contravenes the provisions of Section 3."

7. *Learned counsel for the applicant further submits that the embargo under Section 4 as to who can lodge an F.I.R. regarding an offence under Section 3 of the Act, 2021 is absolute. The complainant is neither the aggrieved person, nor his/her parents, brother, sister or any other person, who is related to him/her by blood, marriage or adoption is aggrieved person as provided under Section 4 of the Uttar Pradesh Prohibition of Unlawful Conversion of Religion Act, 2021. Complainant just being a personnel of Anti-Terrorist Squad has lodged the instant first information report for gaining his career goodwill amongst other personnel of the force, although he is not competent to lodge the present FIR as per the provisions of Section 4 of the Act 2021.*

8. *Learned counsel for the applicant further submits that the applicant is not involved in activity of attempt to convert, either directly or otherwise, any other person from one religion to another by use or practice of misrepresentation, force, undue influence, coercion, allurement or by any fraudulent means and they have been falsely implicated in the present case and the complainant has no locus to lodge the present F.I.R. as provided under Section 4 of the Act, 2021, thus, he submits that the applicant has made out a case for some interim relief, therefore, some interim protection may be granted by this Court while issuing notices to the opposite parties.*

9. *In view of the above, the matter requires consideration on fact and law both.*

10. *Learned A.G.A. has accepted notice on behalf of State-opposite party. He prays for and is granted four weeks' time to file counter affidavit. Two weeks' time thereafter shall be available to learned Counsel for the applicant for filing rejoinder affidavit.*

11. Accordingly, list/put up this case on 22.07.2024 before appropriate Bench.

12. Till the next date of listing, the further proceedings in pursuance to the order dated 19.01.2024, 20.01.2024 passed by learned Court of Additional District & Sessions Judge IIIrd/Special Judge, N.I.A-A.T.S., Lucknow in Sessions Trial No.1064 of 2022 under Sections 417, 120-B, 153-A, 153-B, 295-A, 298, 121-A and 123 I.P.C. and Section 3/5/8 U.P. Prohibition of Unlawful Conversion of Religion Act, 2021 shall be kept in abeyance so far it relates to the present applicant."

5. Thereafter, the matter was listed before learned Special Judge, N.I.A/A.T.S., Lucknow on 11.03.2024 and the learned trial court has passed the following order:-

"दिनांक-11.03.2024

पत्रावली पेश हुई। पुकारा गया। अभियुक्तगण कौशर आलम, प्रसाद रामेश्वर कायरे, धीरज गोविन्द राव जगताप, भूप्रियो बन्दो अर्सलान, मो० उमर गौतम व मन्नू यादव जरिए वीडियो कॉन्फ्रेंसिंग उपस्थित है तथा अभियुक्तगण डॉ० फराज शाह, अब्दुल्ला उमर, सरफराज अली जाफरी, मो० सलीम, मो० इदरीश कुरैशी, मो० कलीम सिद्दीकी, राहुल भोला, सलाहुद्दीन जैनुनद्दीन शेख, इरफान शेख, मुफ्ती काजी जहाँगीर कासमी व कुणाल अशोक चौधरी व्यक्तिगत रूप से न्यायालय के समक्ष उपस्थित हैं। आज पत्रावली आरोप परिवर्धन के लिए नियत की गई है। इसी बीच अभियुक्त मो० इदरीश कुरैशी की ओर से माननीय उच्च न्यायालय द्वारा प्रार्थनापत्र अंतर्गत धारा-482 सं०- 2153/2024 में पारित आदेश दिनांकित-05.03.2024 की प्रतिलिपि प्रस्तुत कर यह अनुरोध किया गया है कि पत्रावली की कार्यवाही को अभियुक्त मो० इदरीश के सम्बन्ध में स्थगित कर दिया जाये। विद्वान अधिवक्तागण श्री मुकुल जोशी एवं श्री आमिर नकवी ने यही राय व्यक्त की है परन्तु स्टेट की ओर से एस०पी०ओ० श्री नागेन्द्र गोस्वामी ने यह तथ्य रखा है कि माननीय उच्च न्यायालय की डिवीजन बेंच ने इस पत्रावली में क्रिमिनल अपील सं०-2338/2022 में पारित आदेश दिनांकित 16.12.2022 के द्वारा पत्रावली का निस्तारण शीघ्र एक वर्ष के अंदर करने का आदेश पारित किया है। अतः माननीय उच्च न्यायालय ने वाद की कार्यवाही स्थगित करने का आदेश पारित नहीं किया है वरन् आदेश दिनांक-19.01.2024 व 20.01.2024 के अनुपालन में किसी कार्यवाही को अग्रिम लिस्टिंग तिथि दिनांक-22.07.2024 तक निलम्बित अवस्था में रखा है। अतः इस मामले में अभियुक्त मो० इदरीश कुरैशी के विरुद्ध भी विचारण की कार्यवाही करने में कोई रोक नहीं है।

मैंने उभय पक्षों के विद्वान अधिवक्ता को सुन लिया है तथा पत्रावली का परिशीलन कर लिया है तथा माननीय उच्च न्यायालय के आदेश दिनांक-05.03.2024 का भी ससम्मान अवलोकन कर लिया है। उक्त आदेश के पैरा-2 से ही यह स्पष्ट है कि अभियुक्त मो० इदरीश के द्वारा आदेश दिनांक-19.01.2024 व 20.01.2024 के माध्यम से जो न्यायालय से बाहर जाने के दौरान एमिक्स क्यूरी नियुक्त करने का आदेश दिया था उसे निरस्त करने तथा अपनी पसन्द के अधिवक्ता से प्रतिरक्षा का अधिकार चाहा था तथा धारा-207 द०प्र०सं० में जो नकल दिये जाने का आदेश निरस्त कर दिया गया था उसको भी आक्षेपित किया गया था। इसी कारण पैरा-12 में अभियुक्त मो० इदरीश कुरैशी के सम्बन्ध में दिनांक-19.01.2024 व 20.01.2024 के आदेश के परिणामस्वरूप हुई कार्यवाही को निलम्बित अवस्था में रखने का आदेश पारित किया गया है। अतः उपरोक्त आदेश के अनुपालन में इस न्यायालय द्वारा निम्न आदेश पारित किया जाता है-

आदेश

माननीय उच्च न्यायालय के इस आदेश दिनांक-05.03.2024 के अनुपालन में अभियुक्त मो0 इदरीश कुरैशी के सम्बन्ध में उसके विद्वान अधिवक्ता श्री आमिर नकवी के अनुपस्थित रहने या नमाज पढ़ने जाने की दशा में श्रीमती किरण खन्ना के द्वारा पैरवी करने का जो आदेश किया गया था उस आदेश का क्रियान्वयन दिनांक-22.07.2024 तक निलम्बित अवस्था में रखा जाता है। पूर्व की भाँति विद्वान अधिवक्ता श्री आमिर नकवी, अभियुक्त मो0 इदरीश कुरैशी की पैरवी करते रहेंगे। वाद की पूरी कार्यवाही निलम्बित नहीं की गई है, इस आधार पर यह न्यायालय पूर्व निर्धारित आरोप परिवर्धन की कार्यवाही आज नहीं कर रही है, भविष्य की किसी अन्य तिथि पर इस पर आदेश पारित किया जायेगा व आरोप परिवर्धित किया जायेगा। माननीय उच्च न्यायालय के आदेश दिनांक 16.12.2022 के अनुसार विचारण एक वर्ष की अवधि के अन्दर पूरा न हो पाने के कारण और समय की प्रार्थना हेतु माननीय उच्च न्यायालय को पत्र प्रेषित किया जाये। अभियोजन शेष साक्षियों को परीक्षित कराये। वास्ते शेष साक्ष्य पत्रावली दिनांक-12.03.2024 को पेश हो। "

6. From bare perusal of the order dated 11.03.2024 it transpires that the learned trial court has only observed in its order that the Advocate who was earlier appearing on behalf of the accused shall continue to appear and argue on his behalf till 22.07.2024, which is the next date fixed in this Court but so far as the request made by the applicant vide his application dated 19.01.2024 under Section 207 Cr.P.C. wherein he has demanded a copy of the electronic evidence available against him, the trial court has not given any observation in its order dated 11.03.2024, thus, it appears that the learned trial court has misunderstood the detailed order dated 05.03.2024 passed by this Court and proceeded in a very arbitrary manner without analyzing the gravity of the order dated 05.03.2024 passed by this Court and unless and until the copy of the electronic evidence demanded by the applicant vide his application dated 19.01.2024 under Section 207 Cr.P.C. is not provided to the applicant, the trial court ought not to have proceeded with trial of the case, or must have given some observation in this regard but the trial court is silent.

7. It is further observed here that an electronic record produced for inspection of court is a documentary evidence under Section 3 of the Indian Evidence Act, 1872 and being an electronic document as envisaged by Section 2(1)(t) of the Information Technology Act, 2000 must be regarded as a "Document". Further, if the prosecution proposes to rely on it against the applicant, ordinarily, the applicant must be given a clone copy thereof as per the mandate of Section 207 Cr.P.C. to enable him to present an effective defense during trial. Section 3 of the Indian Evidence Act, 1872 and Section 207 Cr.P.C. are reproduced hereinunder:-

"Section 3 of the Indian Evidence Act, 1872.

3. Interpretation clause.—In this Act the following words and expressions are used in the following senses, unless a contrary intention appears from the context:

"Court".—"Court" includes all Judges and Magistrates, and all persons, except arbitrators, legally authorised to take evidence.

“Fact”.—“Fact” means and includes— (1) any thing, state of things, or relation of things, capable of being perceived by the senses;

(2) any mental condition of which any person is conscious.

Illustrations

(a) That there are certain objects arranged in a certain order in a certain place, is a fact.

(b) That a man heard or saw something, is a fact.

(c) That a man said certain words, is a fact.

(d) That a man holds a certain opinion, has a certain intention, acts in good faith or fraudulently, or uses a particular word in a particular sense, or is or was at a specified time conscious of a particular sensation, is a fact.

(e) That a man has a certain reputation, is a fact.

“Relevant”.—One fact is said to be relevant to another when the one is connected with the other in any of the ways referred to in the provisions of this Act relating to the relevancy of facts.

“Facts in issue”.—The expression “facts in issue” means and includes—

any fact from which, either by itself or in connection with other facts, the existence, non-existence, nature or extent of any right, liability, or disability, asserted or denied in any suit or proceeding, necessarily follows.

Explanation.—Whenever, under the provisions of the law for the time being in force relating to Civil Procedure³, any Court records an issue of fact, the fact to be asserted or denied in the answer to such issue is a fact in issue.

Illustrations

A is accused of the murder of B.

At his trial the following facts may be in issue:—

that A caused B's death;

that A intended to cause B's death;

that A had received grave and sudden provocation from B;

that A, at the time of doing the act which caused B's death, was, by reason of unsoundness of mind, incapable of knowing its nature.

“Document”—“Document” means any matter expressed or described upon any substance by means of letters, figures or marks, or by more than one of those means, intended to be used, or which may be used, for the purpose of recording that matter.

Illustrations

A writing is a document;

Words printed, lithographed or photographed are documents;

A map or plan is a document;

An inscription on a metal plate or stone is a document;

A caricature is a document.

“Evidence”.—“Evidence” means and includes—

(1) all statements which the Court permits or requires to be made before it by witnesses, in relation to matters of fact under inquiry;

such statements are called oral evidence;

(2) all documents [including electronic records] produced for the inspection of the Court;

such documents are called documentary evidence.

“Proved”.—A fact is said to be proved when, after considering the matters before it, the Court either believes it to exist, or considers its existence so probable that a prudent man ought, under the circumstances of the particular case, to act upon the supposition that it exists.

“Disproved”.—A fact is said to be disproved when, after considering the matters before it, the Court either believes that it does not exist, or considers its non-existence so probable that a prudent man ought, under the circumstances of the particular case, to act upon the supposition that it does not exist.

“Not proved”.—A fact is said not to be proved when it is neither proved nor disproved.

Section 207 of Criminal Procedure Code, 1973

207. Supply to the accused of copy of police report and other documents.

-In any case where the proceeding has been instituted on a police report, the Magistrate shall without delay furnish to the accused, free of post, a copy of each of the following:-

(i) the police report;

(ii) the first information report recorded under section 154;

(iii) the statements recorded under sub-section (3) of section 161 of all persons whom the prosecution proposes to examine as its witnesses, excluding there from any part in regard to which a request for exclusion has been made by the police officer under sub-section (6) of section 173;

(iv) the confessions and statements, if any, recorded under section 164;

(v) any other document or relevant extract thereof forwarded to the Magistrate with the police report under sub-section (5) of section 173 :

Provided that the Magistrate may, after perusing any such part of a statement as is referred to in clause (iii) and considering the

reasons given by the police officer for the request, direct that a copy of that part of the statement or of such portion thereof as the Magistrate thinks proper, shall be furnished to the accused:

Provided further that if the Magistrate is satisfied that any document referred to in clause (v) is voluminous, he shall, instead of furnishing the accused with a copy thereof, direct that he will only be allowed to inspect it either personally or through pleader in Court."

8. Thus, it is crystal clear that all the documents including "Electronic Record" produced for the inspection of the court alongwith the police report and on which the prosecution proposes to use and rely against the accused/applicant must be furnished to the applicant as per the mandate of Section 207 Cr.P.C. The concomitant is that it must be furnished in a cloned copy.

9. It is a cardinal principal that a person tried of serious offence should be furnished with all the material and evidences in advance, on which the prosecution proposes to rely against the applicant during the trial. Any other view would not only impinge upon the statutory mandate contained in Cr.P.C. but also the right of the applicant to a fair trial enshrined in Article 21 of the Constitution of India.

10. Further, the Hon'ble Supreme Court in the case of ***Tarun Tyagi v. CBI reported in (2017) 4 SCC 490*** has been pleased to observe in paragraph Nos.8 and 10, which are reproduced hereunder:-

"8. Section 207 puts an obligation on the prosecution to furnish to the accused, free of cost, copies of the documents mentioned therein, without any delay. It includes, documents or the relevant extracts thereof which are forwarded by the police to the Magistrate with its report under Section 173(5) of the Code. Such a compliance has to be made on the first date when the accused appears or is brought before the Magistrate at the commencement of the trial inasmuch as Section 238 of the Code warrants the Magistrate to satisfy himself that provisions of Section 207 have been complied with. Proviso to Section 207 states that if documents are voluminous, instead of furnishing the accused with the copy thereof, the Magistrate can allow the accused to inspect it either personally or through pleader in the court.

10. It is clear from the above that CBI had seized some hard discs marked Q-2, 9 and 20 from the premises of the appellant which contained the source code of the data recovery software. The defence of the appellant is that this source code was exclusively prepared by him and was his property. On the other hand, case of the prosecution is that the recovered CDs are in fact same or similar to the software stolen in 2005. In a case like this, at the time of trial, the attempt on the part of the prosecution would be to show that the seized material, which contains the source code, is the property of the complainant. On the other hand, the appellant will try to

demonstrate otherwise and his attempt would be to show that the source code contained in those CDs is different from the source code of the complainant and the seized material contained the source code developed by the appellant. It is but obvious that in order to prove his defence, the copies of the seized CDs need to be supplied to the appellant. The right to get these copies is statutorily recognised under Section 207 of the Code, which is the hallmark of a fair trial that every document relied upon by the prosecution has to be supplied to the defence/accused at the time of supply of the charge-sheet to enable such an accused to demonstrate that no case is made out against him and also to enable him to prepare his cross-examination and defence strategy. There is no quarrel up to this point even by the prosecution. The only apprehension of the prosecution is that if the documents are supplied at this stage, the appellant may misuse the same."

11. Further, the Hon'ble Supreme Court in the case of **V.K. Sasikal v. State** reported in **(2012) 9 SCC 771** and reiterated in **Anokhilal vs. State of Madhya Pradesh** reported in **(2019) 20 SCC 196** has been pleased to observe as under:-

"25. In V.K. Sasikala v. State [V.K. Sasikala v. State, (2012) 9 SCC 771: (2013) 1 SCC (Cri) 1010] a caution was expressed by this Court as under:

"23.4. While the anxiety to bring the trial to its earliest conclusion has to be shared it is fundamental that in the process none of the well-entrenched principles of law that have been laboriously built by illuminating judicial precedents are sacrificed or compromised. In no circumstance, can the cause of justice be made to suffer, though, undoubtedly, it is highly desirable that the finality of any trial is achieved in the quickest possible time."

26. Expeditious disposal is undoubtedly required in criminal matters and that would naturally be part of guarantee of fair trial. However, the attempts to expedite the process should not be at the expense of the basic elements of fairness and the opportunity to the accused, on which postulates, the entire criminal administration of justice is founded. In the pursuit for expeditious disposal, the cause of justice must never be allowed to suffer or be sacrificed. What is paramount is the cause of justice and keeping the basic ingredients which secure that as a core idea and ideal, the process may be expedited, but fast tracking of process must never ever result in burying the cause of justice."

12. It would also be relevant here to take note of the fact that the learned trial court in its order dated 19.01.2024 has also given its finding regarding the non presence of counsel for the applicant during the trial as they belong to certain religion and they often leave the court to offer prayers at the place of worship and in pursuance of that he has appointed the amicus curie to represent the applicant during the course of the trial against the wishes of the

applicant and other co-accused persons in the present case, who have appointed counsels of their choice and their religion on their behalf to represent themselves in the trial court, this shows clear discrimination on the part of the trial court on the basis of religion, which is clear violation of Fundamental Right enshrined in Article 15 of the Constitution of India. Article 15 of the Constitution of India is reproduced hereinunder:-

"15. Prohibition of discrimination on grounds of religion, race, caste, sex or place of birth

(1) The State shall not discriminate against any citizen on grounds only of religion, race, caste, sex, place of birth or any of them.

(2) No citizen shall, on grounds only of religion, race, caste, sex, place of birth or any of them, be subject to any disability, liability, restriction or condition with regard to-

(a) access to shops, public restaurants, hotels and places of public entertainment; or

(b) the use of wells, tanks, bathing ghats, roads and places of public resort maintained wholly or partly out of State funds or dedicated to the use of the general public.

(3) Nothing in this article shall prevent the State from making any special provision for women and children.

[Editorial comment- The Constitution (First Amendment) Act, 1951, made several changes to the Fundamental Rights Part of the Indian constitution. It made it clear that the right to equality does not preclude passing laws that give special consideration to society's most vulnerable groups. Article 15(3) was appropriately expanded to prevent any special provisions made by the State for the social, economic, or educational progression of any disadvantaged class of citizens from being contested based on discrimination. Also Refer Also refer]

(4) Nothing in this article or in clause (2) of article 29 shall prevent the State from making any special provision for the advancement of any socially and educationally backward classes of citizens or for the Scheduled Castes and the Scheduled Tribes.

(5) Nothing in this article or in sub-clause (g) of clause (1) of article 19 shall prevent the State from making any special provision, by law, for the advancement of any socially and educationally backward classes of citizens or for the Scheduled Castes or the Scheduled Tribes in so far as such special provisions relate to their admission to educational institutions including private educational institutions, whether aided or unaided by the State, other than the minority educational institutions referred to in clause (1) of article 30.

[The Constitution (Ninety-third Amendment) Act, 2005, adjoined a clause to Article 15 stating that the state has the authority to establish certain specific Provisions concerning accommodations for the progress of any sociologically and academically disadvantaged

sectors of the society, as well as to the scheduled castes and scheduled tribes, with respect to their enrollment to academic institutions, including private academic institutions, whether assisted or unassisted by the state, except minority institutions. Also Refer]

(6) Nothing in this article or sub-clause (g) of clause (1) of article 19 or clause (2) of article 29 shall prevent the State from making,—

(a) any special provision for the advancement of any economically weaker sections of citizens other than the classes mentioned in clauses (4) and (5); and

(b) any special provision for the advancement of any economically weaker sections of citizens other than the classes mentioned in clauses (4) and (5) in so far as such special provisions relate to their admission to educational institutions including private educational institutions, whether aided or unaided by the State, other than the minority educational institutions referred to in clause (1) of article 30, which in the case of reservation would be in addition to the existing reservations and subject to a maximum of ten per cent. of the total seats in each category.

Explanation.—For the purposes of this article and article 16, "economically weaker sections" shall be such as may be notified by the State from time to time on the basis of family income and other indicators of economic disadvantage.

[Editorial Comment - Article 15 protects the citizens against various forms of discrimination based on religion and gender. The Constitution of India guarantees various rights to its citizens, including no discrimination on account of religion, race, caste, or place of birth. Article 15 restricts discrimination on the ground of:

Religion – It means that no person should be discriminated against on the basis of religion from accessing any public place or policy by the state or any group."

13. Thus, if there were other grounds they ought to have been stated in the order of the trial court. It can be clearly inferred that the trial court had passed the order which is directly contrary to the terms of Article 15(1) as violating a specific constitutional prohibition. The learned Judge of the trial court has clearly discriminated one community only on the basis of religion.

14. It is further observed here that judicial misconduct comes in many forms and ethical standards address problematic actions, omissions and relationships that deplete public confidence. Common complaints of ethical misconduct include improper demeanour; failure to properly disqualify when the judge has a conflict of interest; engaging in ex parte communication and failure to execute their judicial duties in a timely fashion. Behavior outside of the courtroom can also be at issue. Judicial conduct oversight should not attempt to regulate purely personal aspect of judges life. However, a Judge

can commit misconduct by engaging in personal behavior that calls their judicial integrity into question.

15. This Court also finds it relevant to observe here that a judicial service is not an ordinary government service and the Judges are not employees as such. Judges hold the public office; their function is one of the essential functions of the State. In discharge of their functions and duties, the Judges represent the State. The office that a Judge holds is an office of public trust. A Judge must be a person of impeccable integrity and unimpeachable independence. He must be honest to the core with high moral values. When a litigant enters the courtroom, he must feel secured that the Judge before whom his matter has come, would deliver justice impartially and uninfluenced by any consideration. The standard of conduct expected of a Judge is much higher than an ordinary man. This is no excuse that since the standards in the society have fallen, the Judges who are drawn from the society cannot be expected to have high standards and ethical firmness required of a Judge. A Judge, like Caesar's wife, must be above suspicion. The credibility of the judicial system is dependent upon the Judges who man it. For a democracy to thrive and the rule of law to survive, justice system and the judicial process have to be strong and every Judge must discharge his judicial functions with integrity, impartiality and intellectual honesty.' There can be no manner of doubt that a Judge must decide the case only on the basis of the facts on record and the law applicable to the case. If a Judge decides a case for any extraneous reasons then he is not performing his duty in accordance with law.

16. In view of the above discussions and judgments referred above, this Court finds that the trial court has committed an error while perusing the order dated 05.03.2024 passed by this Court whereby this Court has passed a detailed order staying the effect and operation of the impugned orders in the present application filed under Section 482 Cr.P.C. and erroneously taken note of the said order in piece meal whereby he had recalled his order of appointment of amicus curie to represent the applicant during the course of the trial and has directed that the earlier counsel for the applicant will continue to represent and argue on behalf of the applicant during the course of the trial. It is further observed here that so far as the application moved by the applicant under Section 207 Cr.P.C. seeking copy of the electronic evidence proposed to be relied by the prosecution against him, the trial court has remained silent and did not provide a copy of the electronic evidence to the applicant, which is a mandatory provision under Section 207 Cr.P.C. read with Section 238 Cr.P.C. It is further observed here that even though an interim protection was granted by this Court vide order dated 05.03.2024, the trial court has proceeded with the trial ignoring the observations made by this Court in the said order against the present applicant. Thus, it appears that the trial court has failed to understand the tenor of the order passed by this Court

and did not comply with the order of this Court in full spirit and has proceeded with the trial, this shows the misconduct of the trial court.

17. *Keeping in view the above facts and circumstances of the case and also taking note of the judgments referred above, this Court is of the view that the effect and operation of the orders dated 19.01.2024 and 20.01.2024 shall remain stayed in terms of the order dated 05.03.2024 passed by this Court and the trial court will not proceed further with the trial only in regard to the present applicant till further orders of this Court.*

18. *It is further observed here that in view of the discussions/observations and after perusal of the orders passed by the trial court, this Court fails to understand the basis and legal aspects on which the findings of the impugned orders were placed by the trial court and it is also relevant to take note of the fact that the trial court while passing the impugned orders had made certain observations regarding a particular community. This shows judicial misconduct, which breaks down the very fibre of what is necessary for a functional judiciary-citizens who believes their judges are fair and impartial. The judiciary cannot exist without the trust and confidence of the people. Judges must, therefore, be accountable to legal and ethical standards. In holding them accountable for their behavior, judicial conduct review must be performed without invading the independence of judicial decision-making. Thus, the Additional District & Sessions Judge IIIrd/Special Judge, N.I.A-A.T.S., Lucknow is directed to file a personal affidavit explaining therein that under what circumstances, he had passed the orders dated 19.01.2024 and 20.01.2024 and why the order of this Court dated 05.03.2024 has been perused in a piece meal not been complied in full spirit.*

19. On the next date of listing, the Additional District & Sessions Judge IIIrd/Special Judge, N.I.A-A.T.S., Lucknow shall remain present before this Court alongwith original records of the case and also the copy of the order dated 16.12.2022 reference of which was given by it in the order dated 11.03.2024 to assist this Court alongwith his personal affidavit.

20. This Court is aware about the direction issued by the Hon'ble Supreme Court of India by way of an Standard Operating Procedure (SOP) dated 03.01.2024 in respect of calling the government officials concerned in person before the Court and have interaction through video conferencing but in the present case it is not possible to peruse the entire record through video conferencing, thus, the personal appearance of the officer concerned is required alongwith record and his affidavit, as the officer concerned is posted at Lucknow.

21. Shri Shiv Nath Tilhari, learned A.G.A-I for the State-opposite party as well as learned Senior Registrar of this Court is directed to communicate this

order to Additional District & Sessions Judge IIIrd/Special Judge, N.I.A-A.T.S., Lucknow for its necessary compliance, forthwith.

22. List/put up this case on 15.04.2024 at 3:30 P.M. before this Court for further orders.

Order Date :- 3.4.2024

Piyush/-

Case :- APPLICATION U/S 482 No. - 2153 of 2024

Applicant :- Mohammad Idris (As Per Prosecution Mohammad Idris Qureshi)

Opposite Party :- State Of U.P. Thru. Prin. Secy. Home, Lko.

Counsel for Applicant :- Mohemmed Amir Naqvi, Abhishek Singh, Ajeet Pratap Singh, Zia Ul Qayuum

Counsel for Opposite Party :- G.A.

Hon'ble Shamim Ahmed, J.

Memo of appearance filed today in the Court by Shri Gaurav Mehrotra, Advocate on behalf of Shri Vivekanand Sharan Tripathi, Additional District & Sessions Judge-IIIrd/ Special Judge NIA/ATS, Lucknow is taken on record.

Heard Shri Abhishek Singh, learned Counsel for the applicant, Shri Gaurav Mehrotra, appearing on behalf of learned Additional District & Sessions Judge-IIIrd/ Special Judge NIA/ATS, Lucknow, Shri Shiv Nath Tilhari, learned A.G.A-I for the State-opposite party and perused the material placed on record.

In compliance of the order dated 03.04.2024 passed by this Court, Shri Vivekanand Sharan Tripathi, Additional District & Sessions Judge-IIIrd/ Special Judge NIA/ATS, Lucknow is present before this Court alongwith record but has not filed his personal affidavit.

Shri Vivekanand Sharan Tripathi, Additional District & Sessions Judge-IIIrd/ Special Judge NIA/ATS, Lucknow tendered unconditional apology before this Court and further stated that the impugned orders dated 19.01.2024, 20.01.2024 and 11.03.2024 were passed under misconception, which shall be rectified. He further stated that he will be cautious in future while perusing the orders passed by this Court.

Shri Gaurav Mehrotra, learned Counsel appearing on behalf of Additional District & Sessions Judge-IIIrd/ Special Judge NIA/ATS, Lucknow submits that the personal affidavit of the officer concerned could not be filed today, thus, he seeks some further time to file the same.

Shri Shiv Nath Tilhari, learned A.G.A-I for the State-opposite party also made an agreement with the submissions made by Shri Gaurav Mehrotra, learned Counsel appearing on behalf of Additional District & Sessions Judge-IIIrd/ Special Judge

VERDICTUM.IN

NIA/ATS, Lucknow.

Learned Counsel for the applicant also has no objection to the request made by Shri Gaurav Mehrotra, learned Counsel appearing on behalf of learned Additional District & Sessions Judge-IIIrd/ Special Judge NIA/ATS, Lucknow.

Accordingly, two days' further time is granted to Shri Gaurav Mehrotra, learned Counsel appearing on behalf of Additional District & Sessions Judge-IIIrd/ Special Judge NIA/ATS, Lucknow to file the personal affidavit on behalf of the officer concerned.

List/put up this case on 18.04.2024 before this Court for further orders.

Personal appearance of Additional District & Sessions Judge-IIIrd/ Special Judge NIA/ATS, Lucknow is exempted till further orders of this and there is no need to bring the records on the next date.

Order Date :- 15.4.2024

Piyush/-