

The State Of Madhya Pradesh vs Kunwar Singh on 30 July, 2021

Bench: D.Y. Chandrachud, M.R. Shah

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IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

Criminal Appeal No 709 of 2021
(Arising out of SLP (Crl) No 5517 of 2021)
(Arising out of Diary No 47744 of 2018)

State of Madhya Pradesh

Versus

Kunwar Singh

ORDER

1 Delay condoned.

2 Leave granted.

3 This appeal arises from a judgment and order of a Division Bench

Bench of the High Court of Madhya Pradesh dated 16 May 2018. The High Court, in exercise of its jurisdiction under Section 482 of the Code of Criminal Procedure 1973, quashed a First Information Report 2, being Crime Case No 741 of 2013, registered at PS Jhabua against the respondent for offences alleged under Sections 409/120B, 420/120B, 467, 468, 471/120B of the Indian Penal Code 1860 and Section 13(1)(d) read with Section 13(2) of the Prevention of Corruption Act 1988.

The allegations in the FIR pertain to the National Rural Health Mission under Sanjay Kumar Date: 2021.08.02 17:15:53 IST Reason:

which, in the State of Madhya Pradesh, a manual was created to provide for the 1“CrPC” 2“FIR” use of the ‘Janani Mobility Express’ for the purpose of providing primary care to women belonging to the BPL category during the pre and post natal

stage and also for the benefit of malnourished children. Under the Scheme, private vehicles were to be engaged as ambulances. The Chief Medical Health Officer, Jhabua invited tenders in December 2011 to engage the vehicle. An inspection was carried out by the Head of the Divisional Health Mission in June 2013 during the course of which, certain discrepancies were found in the working of the District Accounts Office. The Mission Director requested the Collector, Jhabua to conduct an investigation. The Collector formed a Committee to inspect the accounts. The Committee found that there were excess payments in the amount of Rs 1,72,768; that, there were no entries in the stock register; and, that, certain payments were of a doubtful nature. It was on the basis of the report of the Committee that Crime Case No 741 of 2013 was registered. Sanction to prosecute was granted by the Department of Public Health and Family Welfare on 9 January 2017. The respondent was posted as the Block Medical Officer at the relevant time. It may be noted at this stage that after investigation was completed, a final report under Section 173 of CrPC was submitted. 5 The respondent moved an application under Section 482 of CrPC, which has been allowed by the Division Bench of the High Court. The High Court noted that the statements of the service providers were recorded. One such service provider, who was running a transport company, indicated that he received money by cheque. But, the vehicle for which the payment was made was not mentioned. The High Court held that the service provider had not specifically stated that the amount which was paid was taken back by the respondent for his own use. Having made the above observations, the High Court held that the respondent was a signatory to the cheques and that the proposal was approved by the accountant. While it has observed that there is a presumption in cases involving financial irregularities and there is a burden on the person approving a financial proposal to be cautious, any negligence in performing their duties would not incur criminal liability unless specific unlawful gain is indicated. On this basis, the High Court has proceeded to quash the FIR. 6 Mr Praneet Pranav, learned counsel appearing on behalf of the appellant, submits that in quashing the FIR, the High Court has lost sight of the fact that there were irregularities in the administration of the Scheme which were noticed not only by the Head of the Mission, but by the Committee which was appointed to enquire into the matter by the Collector. The FIR was lodged after this exercise was carried out. It has been submitted that the respondent was also implicated after investigation and, hence, the High Court was not justified in evaluating the merits of the allegations, which is a matter for trial. 7 On the other hand, Mr Praneet Pranav, learned counsel appearing on behalf of the respondent, submits that the FIR does not specifically advert to the role of the respondent. In this context, it has been submitted that the respondent, as a Block Medical Officer, had only approved of and signed the cheques and, hence, it would not be appropriate to fasten criminal liability at him. 8 Having heard the submissions of the learned counsel appearing on behalf of the appellant and the respondent, we are of the view that the High Court has transgressed the limits of its jurisdiction under Section 482 of CrPC by enquiring into the merits of the allegations at the present stage. The fact that the respondent was a signatory to the cheques is not in dispute. This, in fact, has been adverted to in the judgment of the

High Court. The High Court has also noted that a person who is required to approve a financial proposal is duty bound to observe due care and responsibility. There are specific allegations in regard to the irregularities which have been committed in the course of the work of the 'Janani Mobility Express' under the National Rural Health Mission. At this stage, the High Court ought not to be scrutinizing the material in the manner in which the trial court would do in the course of the criminal trial after evidence is adduced. In doing so, the High Court has exceeded the well-settled limits on the exercise of the jurisdiction under Section 482 of CrPC. A detailed enquiry into the merits of the allegations was not warranted. The FIR is not expected to be an encyclopedia, particularly, in a matter involving financial irregularities in the course of the administration of a public scheme. A final report has been submitted under Section 173 of CrPC, after investigation. 9 For the above reasons, we allow the appeal and set aside the impugned judgment and order of the High Court dated 16 May 2018 in MCRC No 10784 of 2017.

10 Pending application, if any, stands disposed of.

.....J. [Dr Dhananjaya Y Chandrachud]
.....J. [M R Shah] New Delhi;

July 30, 2021

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ITEM NO.23

Court 5 (Video Conferencing)

SECTION II-A

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

SPECIAL LEAVE PETITION (CRIMINAL) Diary No(s). 47744/2018 (Arising out of impugned final judgment and order dated 16-05-2018 in MCRC No. 10784/2017 passed by the High Court of M.P. at Indore) STATE OF MADHYA PRADESH Petitioner(s) VERSUS KUNWAR SINGH Respondent(s) (FOR ADMISSION and I.R. and IA No.15789/2020-CONDONATION OF DELAY IN FILING and IA No.15792/2020-EXEMPTION FROM FILING O.T. and IA No.15791/2020-CONDONATION OF DELAY IN REFILING / CURING THE DEFECTS) Date : 30-07-2021 This petition was called on for hearing today.

CORAM :

HON'BLE DR. JUSTICE D.Y. CHANDRACHUD HON'BLE MR. JUSTICE M.R. SHAH For Petitioner(s) Mr. Praneet Pranav, Adv.

Mr. Pashupati Nath Razdan, AOR Mr. Mirza Kayesh Begg, Adv.

Mr. KP Jayram, Adv.

Ms. Maitreyee Jagat Joshi, Adv.

For Respondent(s)	Mr. Varun Raghavan, Adv.
	Mr. Shivam Sharma, Adv.
	Mr. Raj Kishor Choudhary, AOR
	Mr. Shakeel Ahmed, Adv.
	Ms. Malvika Raghavan, Adv.
	Ms. Richa Pandey, Adv.
	Mr. Anupam Bhati, Adv.
	Mr. Nakul Chaudhary, Adv.

UPON hearing the counsel the Court made the following O R D E R 1 Delay condoned.

2 Leave granted.

3 The appeal is allowed in terms of the signed order.

4 Pending application, if any, stands disposed of.

(SANJAY KUMAR-I)

AR-CUM-PS

(Signed order is placed on the file)

(SAROJ KUMARI GAUR)

COURT MASTER