

Sita Sareen vs The State Of U.P. on 17 January, 2020

Bench: A.M. Khanwilkar, Dinesh Maheshwari

1

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO(S).124 OF 2020
(Arising from SLP(Crl.))

No(s). 10337/20

SITA SAREEN & ANR.

VERSUS

THE STATE OF U.P. & ANR.

O R D E R

1. Leave granted.

2. This appeal takes exception to the judgment and order dated 26.10.2017 in Application No.35347 of 2017 passed by the High Court of Judicature at Allahabad dismissing the application filed by the appellant(s) for quashing the charge- sheet dated 10.10.2016 in Case Crime No.643 of 2000 (Case No.23/2017) against the appellant(s) in connection with offence punishable under Section 13(1)(d) read with Section 13(2) of the Prevention of Corruption Act, 1988 registered with Police Station, Civil Lines, District Muzaffarnagar, pending in the Court of Special Judge, Anti Corruption, Meerut.

3. The crucial question raised by the appellant(s) is that they being a public servant by virtue of being Member(s) of the Committee of Management of Society, the Court could not have taken cognizance against them without prior sanction of the competent authority. For that, reliance has been placed on the definition of expression “public servant” in Section 2(ix) of the Prevention of Corruption Act, 1988 (for short 1988 Act) to be read with Section 2(o) of the U.P. Cooperative Societies Act, 1965 (for short 1965 Act). The expression “public servant” has been defined in 1988 Act to mean any person who is president, secretary or other office bearer of a registered Cooperative Society and consequentially it becomes necessary to advert to the definition of “officer of a Cooperative Society”, as predicated in Section 2(o) of the 1965 Act. The High Court, however, has examined the matter only in the context of the definition of expression “public servant” given in 1988 Act and has made no reference to the State enactment (1965 Act), which also has some bearing on the question in issue. As a result, we set aside the impugned judgment and relegate the parties before the High Court for reconsideration of the issue afresh in accordance with law without being influenced by the observations made in the impugned judgment.

4. We clarify that the interim order passed by this Court on 10.01.2018 would mean that it operates only in respect of the appellants before this Court and it will be open to the prosecution to proceed in the matter qua other accused, if any, in accordance with law.

5. The parties to appear before the High Court on 3rd February, 2020 when the remanded matter may be proceeded further in accordance with law. We request the High Court to dispose of the matter expeditiously.

6. The appeal is disposed of in the above terms. All pending applications are also disposed of.

.....,J.

(A.M. KHANWILKAR)J.

(DINESH MAHESHWARI)

NEW DELHI
JANUARY 17, 2020

ITEM NO.49

COURT NO.7

SECTION II

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

Petition(s) for Special Leave to Appeal (Crl.) No(s). 10337/2017

(Arising out of impugned final judgment and order dated 26-10-2017 in AN No. 35347/2017 passed by the High Court Of Judicature At Allahabad) SITA SAREEN & ANR. Petitioner(s) VERSUS THE STATE OF U.P. & ANR. Respondent(s) (FOR ADMISSION and I.R. IA No.141332/2017-EXEMPTION FROM FILING O.T.) Date : 17-01-2020 This petition was called on for hearing today. CORAM :

HON'BLE MR. JUSTICE A.M. KHANWILKAR HON'BLE MR. JUSTICE DINESH MAHESHWARI For Petitioner(s) Mr. Harin P. Rawal, Sr. Adv.

Mr. Anubhav Kumar, Adv.

Mr. Ankit Agarwal, Adv.

Mr. Abhishek swarup, Adv. For M/S. Manoj Swarup And Co., AOR For Respondent(s) Mr. Vinod Diwakar, AAG Mr. Sarvesh Singh Baghel, AOR Mr. B.N. Dubey, Adv.

UPON hearing the counsel the Court made the following O R D E R Leave granted.

The appeal is disposed of in terms of the signed order.

In view of the above, pending application(s) shall stand disposed of.

(NEETU KHAJURIA)
COURT MASTER

(VIDYA NEGI)
COURT MASTER

(Signed order is placed on the file.)