

State Through Inspector Of Police Cbi ... vs Naresh Prasad Agarwal on 13 February, 2024

Author: Abhay S.Oka

Bench: Abhay S.Oka

2024 INSC 120

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NOS.829-830 OF 2024
(Arising out of S.L.P.(Criminal) Nos.2210-2211 of 2024
@ Diary No.29911 of 2018)

STATE THROUGH INSPECTOR OF POLICE
CBI CHENNAI

...

VS.

NARESH PRASAD AGARWAL & ANR.

...

J U D G M E N T

ABHAY S.OKA, J.

Delay condoned.

2. Leave granted.

3. Heard the learned senior counsel appearing for the appellant and the learned senior counsel appearing for the respondents.

4. The learned Single Judge of the Madras High Court decided two proceedings by the impugned judgment. The first was a petition under Section 482 of the Code of Criminal Procedure, 1973 for quashing the charge sheet in CC No.3 of 2014 pending on the file of the learned Special Judge, CBI cases, Chennai. The second was a Date: 2024.02.19 17:32:47 IST Reason:

Criminal Revision Application challenging the order dated 4th August, 2015 by which an application for discharge made by the respondents in the same case was rejected by the impugned judgment. The learned Judge quashed the charge sheet, insofar as

the first respondent is concerned and by setting aside the order dated 4th August, 2015, an order of discharge was passed as regards another accused.

5. One of the contentions raised in these appeals is that on 17th April, 2017, the learned Single Judge pronounced only one line order declaring the operative part. The learned Judge demitted office on 26 th May, 2017 and a detailed judgment was made available only on 23rd October, 2017, nearly 5 months after the learned Judge demitted the office. On these facts, there is no dispute.

6. The operative part was pronounced on 17th April, 2017. There were five weeks available for the learned Judge to release the reasoned judgment till the date on which he demitted office. However, the detailed judgment running into more than 250 pages has come out after a lapse of 5 months from the date on which the learned Judge demitted the office. Thus, it is obvious that even after the learned Judge demitted the office, he assigned reasons and made the judgment ready. According to us, retaining file of a case for a period of 5 months after demitting the office is an act of gross impropriety on the part of the learned Judge. We cannot countenance what has been done in this case.

7. The learned senior counsel appearing for the respondents tried to urge that we should independently hear the case on merits.

8. Lord Hewart said hundred years back that "justice must not only be done, but must also be seen to be done". What has been done in this case is contrary to what Lord Hewart said. We cannot support such acts of impropriety and, therefore, in our view, the only option for this Court is to set aside the impugned judgment and remit the cases to the High Court for a fresh decision.

9. Accordingly, we set aside the impugned judgment in Criminal O.P.No.21243/2014 and Criminal Revision Case No.1191/2015 in Criminal M.P.No.3613/2014 in CC No.03/2014 and restore both the matters to the file of the High Court of Judicature at Madras. Both the cases shall be decided by the High Court afresh in accordance with law.

10. Needless to add that we have made no adjudication on the merits of the controversy and all issues are left open to be decided by the High Court. If there are any subsequent events, the parties are free to bring it to the notice of the High Court in accordance with law.

11. The appeals are accordingly partly allowed.

.....J. (ABHAY S.OKA)J. (UJJAL BHUYAN) NEW DELHI;

February 13, 2024.