State Of Punjab vs Harnek Singh on 15 February, 2002

Equivalent citations: AIR 2002 SUPREME COURT 1074, 2002 AIR SCW 811, 2002 (2) EASTCRIC 57, 2002 (2) SCALE 179, 2002 (1) LRI 579, 2002 (3) SCC 481, (2002) 2 JT 70 (SC), 2002 (1) UJ (SC) 433, 2002 SCC (CRI) 659, 2002 (3) SRJ 398, 2003 CALCRILR 646, 2002 (2) SLT 27, 2001 CHANDLR(CIV&CRI) 576, (2002) 2 SCJ 73, (2002) 1 ALLCRILR 720, (2002) 2 RAJ CRI C 401, (2002) 1 ALLCRIR 816, (2002) 1 EFR 287, (2002) 1 RECCRIR 245, (2002) 2 CURCRIR 429, 2002 FAJ 166, (2002) 3 MAHLR 353, (2002) 1 RECCRIR 778, (2002) 1 CURCRIR 167, (2002) 1 SUPREME 642, (2002) 2 SCALE 179, (2002) 1 UC 385, (2002) 44 ALLCRIC 785, (2002) 2 CALLT 28, (2002) 1 CHANDCRIC 230, (2002) 1 ALLCRILR 819, (2002) 1 CRIMES 337, (2002) SC CR R 846, 2002 (1) ALD(CRL) 443

Bench: R.P. Sethi, Bisheshwar Prasad Singh

CASE NO.:
Appeal (crl.) 801 of 1999

PETITIONER:
STATE OF PUNJAB

Vs.

RESPONDENT:
HARNEK SINGH

DATE OF JUDGMENT: 15/02/2002

BENCH:
R.P. Sethi & Bisheshwar Prasad Singh

JUDGMENT:

(With Crl.A.Nos.802-808/1999, Crl.A.No.809-810/1999 Crl.A.No.374/2001) J U D G M E N T SETHI,J.

In all these appeals, the FIRs and subsequent proceedings pending against the respondents under the provisions of Prevention of Corruption Act, 1988 (hereinafter referred to as "the 1988 Act") were quashed by the High Court in exercise of the powers vesting in it under Section 482 of the Code of

Criminal Procedure. The accused- respondents had been apprehended while accepting the bribe by laying the trap under the 1988 Act. The High Court found that as the investigations had not been conducted by the authorised officers under the 1988 Act, the same were vitiated and deserved to be quashed.

The questions of law to be adjudicated upon in these appeals are:

> (1) Whether the notifications issued by the State Government in exercise of the powers conferred upon it under Section 5A(1) of the Prevention of Corruption Act, 1947 (since repealed) empowering and authorising Inspector of Police to investigate the cases registered under the said Act are not saved under the saving provisions of the re-

enacted Prevention of Corruption Act, 1988.

(2) Whether the aforesaid notifications not being inconsistent with the provisions of the re-enacted Act continue to be in force and be deemed to have been issued under the Prevention of Corruption Act, 1988 till aforesaid notifications are superseded or specifically withdrawn."

Most of the facts in these appeals are not disputed. It is agreed that during the subsistence of the Prevention of Corruption Act, 1947 (hereinafter referred to as "the 1947 Act"), the Government of Punjab issued a notification on 9.7.1968 authorising Inspectors of Police, for the time being serving in the State Vigilance Department or who may be posted in future to serve with the said agency to investigate the offences under the 1947 Act within the State of Punjab so long as they remain posted in the said agency. In supersession of the notifications dated 9th July, 1968, the Government of Punjab issued another notification on 12.8.1968 under Section 5A(1) of the 1947 Act authorising such inspectors of police to investigate the offences under the Act even beyond the State of Punjab and the restrictions of investigation within the State of Punjab were removed. The 1947 Act was repealed on 9.9.1988 by re-enacting the 1988 Act being Act No.49 of 1988. FIRs against the respondents were, concededly, registered after the coming into force the 1988 Act and the investigation conducted by the Inspectors of Police who had been authorised to investigate the offences by notifications issued under the repealed Act of 1947. The accused-respondents filed petitions under Section 482 of the Cr.P.C. (hereinafter referred to as "the Code") for quashing the FIRs registered and the proceedings pending against them on the ground that the inspectors who had investigated the cases were not the authorised officers in terms of Section 17 of 1988 Act.

In reply to the notices issued by the High Court, the State filed counter affidavit submitting therein that the investigating officers were authorised to investigate the case as provided by first proviso to Sub-section (1) of Section 5A of the 1947 Act. It was contended that in view of the provisions of Section 30(2) of the 1988 Act read with Sections 6 and 24 of the General Clauses Act, the notifications issued by the State of Punjab under the 1947 Act were still in force which empowered the Inspectors of the Police of the Vigilance Department to investigate the cases under the 1947 Act.

The learned Judge, who disposed of the petitions for quashing the FIRs and the subsequent proceedings vide the judgment impugned in these appeals, first dealt with the problem of prevalent corruption in society and described it as cancer eating the bone marrow of the society. He, however, found that the repeal of an Act amounted to its revocation, annulment and abrogation, the effect of which was that the repealed Act or Ordinance did not exist on the statute book. The only exception being the saving provisions in the repeal statute. Referring to Section 30 of the 1988 Act the learned Judge held:

> "It is manifestly clear that the legislature had the intention to bodily lift the provisions of Section 6 of the General Clauses Act, 1897, and incorporate the same in the Amending Act of 1988 and (no other provision) of the General Clauses Act. If the legislature had intended to apply any other provision or whole of the General Clauses Act, 1897, it would have so said clearly instead of saying that section 6 only would apply or would have said nothing in that regard and in that eventuality, whole of the Act of 1897 would have its application. It is trite law that even when a saving clause reserving the rights and liabilities under the repealed law is absent in a new enactment, the same will neither be material nor decisive on the question of different intention because in such cases section 6 of the General Clauses Act will be attracted and rights and liabilities acquired, accrued under the repealed law will remain saved unless there is something to infer that legislature intended to destroy the rights and liabilities already accrued. It, therefore, appears clear that the legislature intended to apply section 6 only and not the whole of the Act."

Regarding the continuity of the notifications after the 1988 Act, the learned Judge observed:

> "These notifications were issued under sub section (1) of Section 5-A of the Prevention of Corruption Act, 1947, and Inspector of Police serving in the Special Inquiry Agency in the Vigilance Department of the Punjab Government or who were to be posted in future to serve in the said agency were authorised to arrest and investigate the case for the commission of the offence under the Act of 1947. The notifications enure in respect of any investigation legal proceedings or remedy that may be instituted, continued or any such penalty, forfeiture or punishment that may be imposed under the Act of 1947, as if the repealing Act or Regulation had not been passed. These notifications referred to above, were not expressly saved by saving provision contained in Section 30(2) of the Act of 1988. These notifications, therefore, would not enure or survive to govern any investigation done or legal proceedings instituted in respect of cases registered under the repealing Act, 1988, after it came into force w.e.f. 9th September, 1988."

After holding that the investigation had not been conducted by the officers as authorised under Section 17(1) of the 1988 Act, the proceedings against the respondents were quashed vide the judgment impugned.

Mr.Inderbir Singh Alag, Advocate appearing for the appellant, contended that the impugned judgment is not sustainable in view of the mandate of Section 30 of the 1988 Act and Section 6 read with Section 24 of the General Clauses Act. It is argued that as notifications issued under Section 5A of the 1947 Act had survived the repeal of the State Act, there was no necessity of issuing any new notification. There being no inconsistency between Section 5A of the 1947 Act and Section 17 of the 1988 Act, the earlier notifications are deemed to be in existence and Inspector of Police authorised to investigate the offences under the 1988 Act.

Appearing for some of the respondents Mr.Ranjit Kumar, Senior Advocate contended that in view of the change in the nature and scope of Prevention of Corruption Act as to its ambit and applicability, the penal statute requires to be strictly construed. As the repealing and saving Section 30 of the 1988 Act refers only to Section 6 of the General Clauses Act, the other provisions of the General Clauses Act cannot be relied upon for the purposes of ascertaining the life of the notifications issued under the 1947 Act. It is submitted that what is saved by the repealed Act, are only the proceedings already having arisen under the repealed Act and nothing more than that. According to him Section 24 of the General Clauses Act cannot be pressed into service for the purpose of deciding the effect of the repeal in the context of notifications issued under 1947 Act.

Mr.Manoj Swarup, learned counsel appearing for some of the respondents contended that the provisions made in two enactments being inconsistent, as is evident from the scheme of the Acts, sub-section (2) of Section 30 would not save the notifications issued under the 1947 Act. He contended that the Legislature intended not to apply any other provision of the General Clauses Act, as is evident from the mentioning of the application of Section 6 of the said Act only in sub-section (2) of Section 30 of the 1988 Act.

Learned counsel appearing for the other respondents made similar submissions to support the impugned judgment in these appeals.

Realising that provisions made in the Indian Penal Code were not adequate to meet the exigencies of the time, an imperative need was felt to make a law to eradicate the evil of bribery and corruption for which the 1947 Act was enacted. The said Act was amended twice by Criminal Law Amendment Act of 1952 and later in 1964. Ultimately the said Act was repealed by the 1988 Act being Act No.49 of 1988. The new Act has made the anti corruption law more effective by widening its coverage and by strengthening its provisions.

Chapter IV deals with the investigation into cases under the Act and Section 17 provides:

> "17. Persons authorised to investigate. -- Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), no police officer below the rank, --
>
> (a) in the case of the Delhi Special Police Establishment, of an Inspector of Police;
>
> (b) in the metropolitan areas of Bombay, Calcutta, Madras and Ahmedabad and in any other metropolitan area notified as such under sub-section (1) of section 8 of the

Code of Criminal Procedure, 1973 (2 of 1974), of an Assistant Commissioner of Police;

(c) elsewhere, of a Deputy Superintendent of Police or a police officer of equivalent rank, shall investigate any offence punishable under this Act without the order of a Metropolitan Magistrate or a Magistrate of the first class, as the case may be, or make any arrest therefor without a warrant:

Provided that if a police officer not below the rank of an Inspector of Police is authorised by the State Government in this behalf by general or special order, he may also investigate any such offence without the order of a Metropolitan Magistrate or a Magistrate of the first class, as the case may be, or make arrest therefor without a warrant:

Provided further than an offence referred to in clause (e) of sub-section (1) of section 13 shall not be investigated without the order of a police officer not below the rank of a Superintendent of Police."

Section 30 of the Act provides:

"30 Repeal and saving.--(1) The Prevention of Corruption Act, 1947 (2 of 1947) and the Criminal Law Amendment Act, 1952 (46 of 1952) are hereby repealed.

(2) Notwithstanding such repeal, but without prejudice to the application of section 6 of the General Clauses Act, 1897 (10 of 1897), anything done or any action taken or purported to have been done or taken under or in pursuance of the Acts so repealed shall, in so far as it is not inconsistent with the provisions of this Act, be deemed to have been done or taken under or in pursuance of the corresponding provision of this Act."

It is relevant, at this stage, to take note of the provisions of Section 5A of the 1947 Act which provided:

"5A. Investigation into cases under this Act - (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (5 of 1898), no police officer below the rank, --

(a) in the case of the Delhi Special Police Establishment, of an Inspector of Police;

(b) in the presidency-towns of Calcutta and Madras, of an Assistant Commissioner of Police;

(c) in the presidency-town of Bombay, of a Superintendent of Police; and

(d) elsewhere, of a Deputy Superintendent of Police, shall investigate any officer punishable under Section 161, Section 165 or Section 165A of the Indian Penal Code (45 of 1860) or under Section 5 of this Act without the order of a Presidency Magistrate or a Magistrate of the first class, as the case may be, or make any arrest therefor without a warrant:

Provided that if a police officer not below the rank of an Inspector of Police is authorised by the State Government in this behalf by general or special order, he may also investigate any such offence without the order of a Presidency Magistrate or a Magistrate of the first class, as the case may be, or make arrest therefor without a warrant:

Provided further that an offence referred to in clause (e) of sub-section (1) of section 5 shall not be investigated without the order of a police officer not below the rank of a Superintendent of Police.

(2) If, from information received or otherwise, a police officer has reason to suspect the commission of an offence which he is empowered to investigate under sub-section (1) and considers that for the purpose of investigation or inquiry into such offence, it is necessary to inspect any bankers' books, then, notwithstanding anything contained in any law for the time being in force, he may inspect any bankers' books in so far as they relate to the accounts of the person suspected to have committed that offence or of any other person suspected to be holding money on behalf of such person, and take or cause to be taken certified copies of the relevant entries therefrom, and the bank concerned shall be bound to assist the police officer in the exercise of his powers under this sub-section:

Provided that no power under this sub-section in relation to the accounts of any person shall be exercised by a police officer below the rank of a Superintendent of Police, unless he is specially authorised in this behalf by a police officer of or above the rank of a Superintendent of Police.

Explanation.-- In this sub-section, the expressions "bank" and "bankers' books" shall have the meaning assigned to them in the Bankers' Books Evidence Act, 1891 (18 of 1891)."

For deciding the controversy it is also necessary to take note of the provisions of Sections 6 and 24 of the General Clauses Act which provide as under:

"6. Effect of repeal. -- Where this Act, or any Central Act or Regulation made after the commencement of this Act, repeals any enactment hitherto made or hereafter to be made, then, unless a different intention appears, the repeal shall not--

(a) revive anything not in force or existing at the time at which the repeal takes effect; or

(b) affect the previous operation of any enactment so repealed or anything duly done or suffered thereunder; or

(c) affect any right, privilege, obligation or liability acquired, accrued or incurred under any enactment so repealed; or

(d) affect any penalty, forfeiture or punishment incurred in respect of any offence committed against any enactment so repealed; or

(e) affect any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, penalty, forfeiture or punishment as aforesaid, and any such investigation, legal proceeding or remedy may be instituted, continued or enforced, and any such penalty, forfeiture or punishment may be imposed as if the repealing Act or Regulation had not been passed."

24. Continuation of orders, etc., issued under enactments repeated and re-enacted - Where any Central Act or Regulation is, after the commencement of this Act, repealed and re-enacted with or without modification, then unless it is otherwise expressly provided, any appointment, notification, order, scheme, rule, form or bye-law made or issued under the repealed Act or Regulation, shall so far as it is not inconsistent with the provisions re-enacted, continue in force, and be deemed to have been made or issued under the provisions so re-enacted, unless and until it is superseded by any appointment, notification, order, scheme, rule form or bye-law made or issued under the provisions so re-enacted and when any Central Act or Regulation, which, by a notification under Section 5 or 5A of the Scheduled District Act, 1874 (XIV of 1974), or any like law, has been extended to any local area, has, by a subsequent notification, been withdrawn from the re-extended to such area or any part thereof, the provisions of such Act or Regulation shall be deemed to have been repealed and re-enacted in such area or part within the meaning of this section."

The General Clauses Act has been enacted to avoid superfluity and repetition of language in various enactments. The object of this Act is to shorten the language of Central Acts, to provide as far as possible, for uniformity of expression in Central Acts, by giving definition of series of terms in common use, to state explicitly certain convenient rules for the construction and interpretation of Central Acts, and to guard against slips and oversights by importing into every Act certain common form clauses, which otherwise ought to be inserted expressly in every Central Act. In other words the General Clauses Act is a part of every Central Act and has to be read in such Act unless specifically excluded. Even in cases where the provisions of the Act do not apply, courts in the country have applied its principles keeping in mind the inconvenience that is likely to arise otherwise, particularly when the provision made in the Act are based upon the principles of equity, justice and good conscience.

The words "anything duly done or suffered thereunder"

used in sub-clause (b) of Section 6 are often used by the Legislature in saving clause which is intended to provide that unless a different intention appears, the repeal of an Act would not affect anything duly done or suffered thereunder. This Court in Hasan Nurani Malak v. Assistant Charity Commissioner, Nagpur & Ors. [AIR 1967 SC 1742] has held that the object of such a saving clause is to save what has been previously done under the statute repealed. The result of such a saving clause is that the pre-existing law continues to govern the things done before a particular date from which the repeal of such a pre-existing law takes effect. In Universal Imports Agency v. Chief Controller of Imports and Exports [1961 (1) SCR 305 = AIR 1961 SC 41) this Court while construing the words "things done" held that a proper interpretation of the expression "things done" was comprehensive enough to take in not only the things done but also the effect of the legal consequence flowing therefrom.

Section 24 of the General Clauses Act deals with the effect of repeal and re-enactment of an Act and the object of the section is to preserve the continuity of the notifications, orders, schemes, rules or bye-laws made or issued under the repealed Act unless they are shown to be inconsistent with the provisions of the re-enacted statute.

In Neel @ Niranjan Majumdar v. The State of West Bengal [AIR 1972 SC 2066], the petitioner therein had challenged the order of his detention under sub-section (1) read with sub-section (3) of Section 3 of the West Bengal (Prevention of Violent Activities) Act, 1970. Sub-section (1) read with sub-section (3) of Section 3 authorised District Magistrate to direct detention of any person in respect of whom he was satisfied that such detention should be ordered with a view to prevent him from acting prejudicially to the security of the State or the maintenance of public order. Sub-section (2) of Section 3 contained a special definition of the expression "acting in any manner prejudicial to the security of the State or the maintenance of public order" to mean the acts enumerated in clauses (a) to (e) thereof. Clause (d) provided:

"(d) committing, or instigating any person to commit, any offence punishable with death or imprisonment for life or imprisonment for a term extending to seven years or more or any offence under the Arms Act, 1959 or the Explosive Substances Act, 1908, where the commission of such offence disturbs, or is likely to disturb, public order."

In the grounds of detention it was mentioned that the detenue indulged in activities including causing injuries with a sword. Under Section 2(1)(c) of the Arms Act, the word "arms" was defined to mean articles of any description designed or adapted as weapons for offence or defence which included firearms, sharp-edged and other deadly weapons. Section 4 of the Arms Act empowered the Central Government, if it was of opinion that having regard to the circumstances prevailing in any area it was necessary or expedient in the public interest that acquisition, possession or carrying of arms, other than firearms, should also be regulated, it may by notification direct that the Section shall apply to the area specified in such a notification and thereupon no person shall acquire, have in

his possession or carry in that area arms of such class or description as may be specified in that notification, except under a licence issued under the provisions of the Act or the rules made thereunder. It was found that no notification, as contemplated by Section 4 of 1959 Act had been issued. But in 1923 such a notification was issued under Section 15 of the earlier Indian Arms Act of 1878 which in terms was similar to Section 4 of the 1959 Act. The question posed before the court was whether Act No.XI of 1878 having been repealed, the said notification issued under Section 15 thereof can still be said to be operative. Dealing with such a situation this Court held:

> "Section 6(b) of the General Clauses Act, however, provides that where any Central Act or regulation made after the commencement of the Act repeals any earlier enactment, then, unless a different intention appears, such repeal shall not "affect the previous operation of any enactment so repealed or any thing duly done or suffered thereunder". Section 24 next provides that where any Central Act is repealed and re-enacted with or without modification, then, unless it is otherwise expressly provided, any notification issued under such repealed Act shall, so far as it is inconsistent with the provisions re-enacted, continue in force and be deemed to have been made under the provisions so re-enacted unless it is superseded by any notification or order issued under the provisions so re-enacted. The new Act nowhere contains an intention to the contrary signifying that the operation of the repealed Act or of a notification issued thereunder was not to continue. Further, the new Act re-enacts the provisions of the earlier Act, and Section 4 in particular, as already stated, has provisions practically identical to those of Section 15 of the earlier Act. The combined effect of Sections 6 and 24 of the General Clauses Act is that the said notification of 1923 issued under Section 15 of the Act of 1878 not only continued to operate but has to be deemed to have been enacted under the new Act."

In Central Bureau of Investigation v. Subodh Kumar Dutta & Anr. [1997 (10) SCC 567] the cognizance of the offence had been taken by Special Court constituted under the West Bengal Special Courts Act. After cognizance had been taken, the Prevention of Corruption Act, 1947 came to be repealed by the Prevention of Corruption Act, 1988 w.e.f. 9.9.1988. The accused filed a Criminal Revision Petition in the High Court seeking quashing of the proceedings in the case pending against him before the Special Court in which the principal ground raised was the violation of fundamental right of the accused to speedy trial. During the arguments the accused was permitted to raise a plea that the Special Court, trying the bribery case, had no jurisdiction to take cognizance of the offence under the Prevention of Corruption Act, 1947 as that court had not been constituted pursuant to Section 3 of the Prevention of Corruption Act, 1988 which had repealed the 1947 Act. Taking note of Section 26 of the 1988 Act, the Single Judge of the High Court opined that the cognizance taken by the Special Court on 9.7.1988 under the 1947 Act was not saved and thus quashed the proceedings. Interpreting sub-section (2) of Section 30 of the 1988 Act, this Court held that a bare look at the provisions of sub- section (2) of Section 30 shows that anything done or any action taken or purported to have been taken under or in pursuance of the Prevention of Corruption Act, 1947 shall be deemed to have been taken under or in pursuance of the corresponding provision of the Prevention of Corruption Act, 1988. In view of this specific provision, the cognizance of the offence taken by the Special Court stood saved.

In Nar Bahadur Bhandari & Anr. v. State of Sikkim & Others [1998 (5) SCC 39] it was held that sub-section (2) of Section 30 of the 1988 Act, on the one hand ensures that the application of Section 6 of the General Clauses Act is not prejudiced, on the other it expressed a different intention as contemplated by the said section. The last part of sub- section introduced a legal fiction whereby anything done or action taken under or in pursuance of 1947 Act shall be deemed to have been done or taken under or in pursuance of the corresponding provision of the 1988 Act. The fiction is to the effect that the 1988 Act had come into force when such thing was done or action was taken.

In Kolhapur Canesugar Works Ltd. & Anr v. Union of India & Ors. [2000 (2) SCC 356] this Court held that at common law the normal act of repealing the statute or deleting the provision is to obliterate it from the statute book as completely as if it had never been passed, and the statute must be considered as a law that never existed. To this rule an exception is engrafted by the provisions of Section 6(1). If a provision of a statute is unconditionally omitted without a saving clause in favour of pending proceedings, all actions must stop where the omission finds them, and if final relief has not been granted before the omission goes into, it cannot be granted afterwards. Savings of the nature contained in Section 6 in Special Act may modify the position.

There is no dispute that when an Act is repealed but re-enacted, it is almost inevitable that there will be some time lag between the re-enacted statute coming into force and regulations being framed under the re-enacted statute. In Chief Inspector of Mines & Anr., etc. vs. Karam Chand Thapar, etc. [AIR 1961 SC 838] this Court observed that:

> "However, efficient the rule-making authority may be it is impossible to avoid some hiatus between the coming into force of the re-enacted statute and the simultaneous repeal of the old Act and the making of regulations. Often, the time lag would be considerable. It is conceivable that any legislature, in providing that regulations made under its statute will have effect as if enacted in the Act, could have intended by those words to say that if ever the Act is repealed and re- enacted, (as is more than likely to happen sooner or later), the regulations will have no existence for the purpose of the re-enacted statute, and thus the re-enacted statute, for some time at least, will be in many respects, a dead letter. The answer must be in the negative. Whatever the purpose be which induced the draftsmen to adopt this legislative form as regards the rules and regulations that they will have effect "as if enacted in the Act", it will be strange indeed if the result of the language used, be that by becoming part of the Act, they would stand repealed, when the Act is repealed. One can be certain that that could not have been the intention of the legislature. It is satisfactory that the words used do not produce that result."

We do not find any force in the submission of the learned counsel appearing for the respondents that as reference made in Sub-section (2) of Section 30 of 1988 Act is only to Section 6 of General Clauses Act, the other provisions of the said Act are not applicable for the purposes of deciding the controversy with respect to the notifications issued under the 1947 Act. We are further of the opinion that the High Court committed a mistake of law by holding that as notifications have not expressly been saved by Section 30 of the Act, those would not enure or survive to govern any

investigation done or legal proceeding instituted in respect of the cases registered under the 1988 Act. There is no dispute that 1988 Act is both repealing and re-enacting the law relating to prevention of corruption to which the provisions of Section 24 of the General Clauses Act are specifically applicable. It appears that as Section 6 of the General Clauses Act applies to repealed enactments, the Legislature in its wisdom thought it proper to make the same specifically applicable in 1988 Act also which is a repealed and re-enacted statute. Reference to Section 6 of General Clauses Act in sub-section (1) of Section 30 has been made to avoid any confusion or misunderstanding regarding the effect of repeal with regard to actions taken under the repealed Act. If the Legislature had intended not to apply the provisions of Section 24 of the General Clauses Act to the 1988 Act, it would have specifically so provided under the enacted law. In the light of the fact that Section 24 of the General Clauses Act is specifically applicable to repealing and re-enacting statute, its exclusion has to be specific and cannot be inferred by twisting the language of the enactments. Accepting the contention of the learned counsel for the respondents would render the provisions of 1988 Act redundant inasmuch as appointments, notifications, orders, schemes, rules, by- laws, made or issued under the repealed Act would be deemed to be non-existent making impossible the working of the re- enacted law impossible. The provisions of the 1988 Act are required to be understood and interpreted in the light of the provisions of the General Clauses Act including Sections 6 and 24 thereof.

There is no substance in the arguments of the learned counsel appearing for the respondents that the provision made in two enactments were inconsistent and sub-section (2) of Section 30 would not save the notifications issued under the 1947 Act. The consistency, referred to in sub-section (2) of Section 30 is with respect to acts done in pursuance of the Repealed Act and thus restricted it to such provision of the Acts which come for interpretation of the court and not the whole of the scheme of the enactment. It has been conceded before us that there is no inconsistency between Section 5A of the 1947 Act and Section 17 of the 1988 Act and provisions of General Clauses Act would be applicable and with the aid of sub-section (2) of Section 30 anything done or any action taken or purported to have been done or taken in pursuance of 1947 Act be deemed to have been done or taken under or in pursuance of the corresponding provision of 1988 Act. For that purpose, the 1988 Act, by fiction, shall be deemed to have been in force at the time when the aforesaid notifications were issued under the then prevalent corresponding law. Otherwise also there does not appear any inconsistency between the two enactments except that the scope and field covered by 1988 Act has been widened and enlarged. Both the enactments deal with the same subject matter, i.e. corruption amongst the public servants and make provision to deal with such a menace.

To justify the impugned judgment and to impress upon us the inconsistency in the two provisions, the learned counsel appearing for the respondents referred to some communications included in the paperbook from pages 109 to

120. It is submitted that the aforesaid correspondence in the form of Annexure P-2 to P-5 showed that the Government had applied its mind under the re-enacted law and took a conscious decision that the Inspectors of Police were not competent to investigate the offences punishable under the new Act and that only officers above the rank of Dy. Superintendent of Police should investigate the cases under the Act. Reference to the aforesaid letters is based upon misconception. In none of the

letters the Government is shown to have taken any decision as argued. The aforesaid documents are the letters exchanged between different officials of the Police Department of the State of Punjab which are not referable to any specific decision of the State Government. In the Memo of Appeal and the Rejoinder Affidavit filed on behalf of the State it is specifically submitted that the proceedings of the high level meeting presided over by the Chief Secretary, referred to by the respondents as decision of the Government, "is internal communication between different wings of the Government and cannot be made basis to conclude that State Government had neither any intention to keep alive the notifications under the Old Act of 1947 nor have any intention to empower the Inspector of Police in the Vigilance Department to investigate the afresh cases. It is also relevant that as per the Old Act, since there were notifications which were valid under the New Act by virtue of Section 6 and 24 of General Clauses Act unless these were formally rescinded, the same hold good and the notings on the file to any effect cannot be made basis for striking down those notifications".

It is, therefore, evident that the notifications issued by the Government of Punjab, in exercise of the powers conferred under Section 5A of the 1947 Act, empowering and authorising the Inspectors of Police posted in Special Inquiry Agency of the Vigilance Department, Govt. of Punjab to investigate the cases registered under the said Act were saved under the saving provision of the re-enacted 1988 Act. Such notifications are not inconsistent with the provisions of re-enacted Act and are deemed to continue in force as having been issued under the re-enacted 1988 Act till the aforesaid notifications are specifically superseded or withdrawn or modified under the 1988 Act. The investigation conducted by the Inspectors of Police authorised in that behalf under the 1947 Act are held to be proper, legal and valid investigation under the re-enacted Act and do not suffer from any vice of illegality or jurisdiction. The High Court committed a mistake of law in holding the aforesaid notifications as not saved under the re-enacted 1988 Act. The quashing of the proceedings on the basis of the First Information Report registered against the respondent-accused was illegal and contrary to the settled position of law. The judgment of the High Court, impugned in these appeals, is, therefore, liable to be set aside.

Under the circumstances, the appeals are allowed and the impugned judgments are set aside. The Trial Courts are directed to proceed with the matter in accordance with law and after framing the charges decide cases on their merits. In view of the fact that the proceedings have been unnecessarily delayed and protracted by the respondents for a sufficiently long period, the trial courts are impressed upon to give priority to the aforesaid cases and conclude the trials at the earliest.

.....J. (R.P. Sethi) .....J. (Bisheshwar Prasad Singh) February 15, 2002