

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (Crl.) No(s).3159/2018

(Arising out of impugned final judgment and order dated 01-02-2018 in CrI.MA No.35886/2017 passed by the High Court Of Judicature At Allahabad)

RASHEED KHAN

Petitioner(s)

VERSUS

THE STATE OF UTTAR PRADESH & ANR.

Respondent(s)

[For admission and I.R. and

I.A.No.51731/2018 - Exemption from filing C/C of the impugned judgment; and

I.A.No.51459/2018 - Exemption from filing O.T.]

Date : 11-09-2018 This petition was called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE A.M. KHANWILKAR

HON'BLE DR. JUSTICE D.Y. CHANDRACHUD

For Petitioner(s) Mr. Salman Khurshid, Sr. Adv.
Mr. Fuzail Ahmad Ayyubi, Adv. [AOR]
Mr. Abdul Qadir, Adv.
Mr. Ibad Mushtaq, Adv.
Ms. Aditi Gupta, Adv.
Mr. Kauser Husain, Adv.
Mr. Aman Kullar, Adv.
Ms. Kamana Singh, Adv.

For Respondent No.2 Mr. Aman Lekhi, Sr. Adv.
Mr. Raghavendra S. Srivatsa, Adv. [AOR]

No.1 Mr. Anshuman Sharma, Adv.
Ms. Swarupama Chaturvedi, Adv. [AOR]
Mr. Sarvesh Singh Baghel, Adv.
Mr. Saurabh Agrawal, Adv.

UPON hearing the counsel the Court made the following
O R D E R

Heard Mr. Salman Khurshid, learned senior counsel for the petitioner and Mr. Aman Lekhi, learned senior counsel for respondent no.2.

The question that emerges for consideration is whether the learned Magistrate, while entertaining a complaint under Section 200 and taking cognizance under Section 204 of the Code of Criminal Procedure, is obliged to record his satisfaction.

In paragraph 53 of the decision of this Court rendered by a three-Judge Bench in *Sunil Bharti Mittal v. Central Bureau of Investigation* (2015) 4 SCC 609 it has been held thus :

"53. However, the words 'sufficient ground for proceeding' appearing in Section 204 are of immense importance. It is these words which amply suggest that an opinion is to be formed only after due application of mind that there is sufficient basis for proceeding against the said accused and formation of such an opinion is to be stated in the order itself. The order is liable to be set aside if no reason is given therein while coming to the conclusion that there is prima facie case against the accused, though the order need not contain detailed reasons. A fortiori, the order would be bad in law if the reason given turns out to be ex facie incorrect."

In view of the aforesaid, we only direct the learned Magistrate, as the High Court has remitted the matter to him, to pass appropriate orders keeping in view the law laid down in the aforesaid passage.

The Special Leave Petition stands disposed of accordingly.

Pending applications, if any, are deemed to have been disposed of.

(Subhash Chander)
AR-cum-PS

(H.S. Parasher)
Assistant Registrar