

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. OF 2019
(Arising out of SLP (CrI.) No.4029 of 2019)

MOHD. ALI ZAFAR

Appellant(s)

VERSUS

STATE OF UTTAR PRADESH & ORS.

Respondent(s)

O R D E R

Leave granted.

This appeal takes exception to the judgment and order dated 11.04.2019 passed by the High Court of Judicature at Allahabad in Application under Section 482 No.13242 of 2019, whereby the application for quashing of chargesheet No.1 dated 07.03.2019 and the summoning order dated 11.03.2019 passed by the Special Judge (Anti-Corruption), C.B.I., Court No.3, Ghaziabad in Special Case No.2 of 2019 under Sections 120B, 420, 468, 471 IPC came to be rejected.

From the impugned order, it appears that the High Court essentially dealt with the apprehension of the appellant that he may be arrested pursuant to non-bailable warrant issued against him. The High Court did not explicate on the other contentions raised by the appellant. To wit, there was no

sanction order in place qua the appellant at the relevant time when the application was filed; and that inquiry under Section 6 of the Delhi Special Police Act cannot proceed without a prior permission of the State Government.

As regards the grievance about no sanction order against the appellant that does not survive for consideration. For, the C.B.I. has now placed on record a sanction order dated 29.05.2019 issued against the appellant by the Board, which it is stated is the competent authority to issue such orders. Whether that sanction order is just and proper is a matter also to be deliberated and can be so done before the High Court. We make it clear that it will be open to the High Court to decline to examine the challenge to the sanction order on merits, if the same is a triable issue.

In view of the above, we set aside the impugned order and instead the quashing application under Section 482 of Criminal Procedure Code, filed by the appellant, is restored to its original number for consideration thereof afresh by the High Court on its own merits. All contentions available to the parties are left open, to be decided on its own merits and in accordance with law.

The appellant shall appear before the High Court on 06.08.2019 to enable the High Court to proceed in the matter expeditiously as per law.

The criminal appeal is disposed of in the above terms.

Pending applications, if any, stand disposed of.

.....J
(A.M. KHANWILKAR)

.....J
(DINESH MAHESHWARI)

New Delhi
July 31, 2019

ITEM NO.7

COURT NO.8

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 (Cr1.) No(s).
 4029/2019

MOHD. ALI ZAFAR

Appellant(s)

VERSUS

THE STATE OF UTTAR PRADESH & ORS.

Respondent(s)

(FOR ADMISSION and I.R.)

WITH

SLP(Cr1) No. 5596/2019 (II)

(FOR ADMISSION and I.R.

IA No. 94389/2019 - EXEMPTION FROM FILING O.T.

IA No. 94387/2019 - PERMISSION TO FILE ADDITIONAL
DOCUMENTS/FACTS/ANNEXURESIA No. 76392/2019 - PERMISSION TO RAISE ADDITIONAL QUESTION OF
LAW)

Date : 31-07-2019 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE A.M. KHANWILKAR

HON'BLE MR. JUSTICE DINESH MAHESHWARI

For Appellant(s)

Mr. Tapesh Kumar Singh, AOR
Mr. Aditya Pratap Singh, Adv.Mr. Ajit Kumar Sinha, Adv.
Mr. Shashank Singh, Adv.
Ms. Chitra Chaudhary, Adv.
Mr. Kanishk Chaudhary, Adv.
Mr. Prashant Chaudhary, AOR
Mr. Ivan, Adv.

For Respondent(s)

Mr. Sarvesh Singh Baghel, AOR
Mr. Saurabh Singh Chauhan, Adv.Mr. K.M. Natraj, ASG
Ms. Ranjana Narayan, Adv.
Mr. Shailesh Madiyal, Adv.
Ms. Indira Bhakar, Adv.

Mr. Arvind Kumar Sharma, AOR
Mrs. Rekha Pandey, AOR

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

SLP(Cr1) No. 4029 /2019

Leave granted.

The Criminal Appeal is disposed of in terms of the signed order.

Pending applications, if any, stand disposed of.

SLP(Cr1) No. 5596/2019

Learned counsel for the petitioner, in all fairness, submits that during the pendency of this Special Leave Petition, the petitioner has surrendered before the Trial Court on 19.07.2019 and granted bail on 27.07.2019.

In the circumstances, the petitioner seeks liberty to withdraw this Special Leave Petition with leave to take recourse to other appropriate proceedings, as may be permissible in law. Ordered accordingly.

Needless to observe that the proposed proceedings be decided on its own merits in accordance with law uninfluenced by the withdrawal of this Special Leave Petition.

Pending applications, if any, stand disposed of.

(DEEPAK SINGH)
COURT MASTER (SH)

(Signed order is placed on the file]

(VIDYA NEGI)
COURT MASTER (NSH)