

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.847 OF 2020
(Arising out of SLP(Crl.)No. 3595 of 2020)

NEERAJ

Appellant(s)

VERSUS

THE STATE OF UTTAR PRADESH & ORS.

Respondent(s)

WITH

CRIMINAL APPEAL NO. 848 OF 2020
(Arising out of SLP(Crl.)No. 3774 OF 2020)

O R D E R

Leave granted.

These appeals question the correctness of the order dated 07.07.2002 passed by the High Court of Judicature at Allahabad in Crl. M. W.P./6773/2020 rejecting the prayer for quashing the F.I.R. dated 05.03.2020 registered as Case Crime No. 0122 of 2020.

In the impugned judgment, the High Court has recorded the argument of the appellants as follows:

"3. From a perusal of first information report and taking the allegations contained therein to be true, it cannot be said that commission of a cognizable offence is not made out. Despite repeated query, learned counsel for the petitioners also could not show that no

offence whatsoever has been made out in the aforesaid first information report...."

After so noting, the High Court proceeded to dismiss the Writ Petition.

The grievance before this court is that the crucial aspects pointed out by the appellants have not been taken note of in the impugned judgment. Further, if the advocate for the appellants was not in a position to point out the legal and factual issues, the appellant should not be denied a fair opportunity or be non-suited by the court.

After hearing learned counsel for the parties, we accede to the argument of the appellants, that the High court judgment does not record all aspects of the matter and the argument(s) canvassed by the appellants before us, which ought to be taken into account in reference to the relief of quashing of F.I.R.

During the hearing, it was brought to our notice by learned counsel for the State that chargesheet has since been filed. In that case, we set aside the impugned order and relegate the parties before the High Court by restoring the writ petition with liberty to the appellant to amend the Writ Petition and urge additional grounds

and seek further reliefs, as may be advised.

All contentions available to both sides are left open, to be decided on its merits.

The appeals are disposed of, in the above terms.

Pending applications, if any, stand disposed of.

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

.....J
(B.R. GAVAI)

New Delhi
December 10, 2020

ITEM NO.11 Court 5 (Video Conferencing) 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). 3595/2020

(Arising out of impugned final judgment and order dated 07-07-2020 in CRLMWP No. 6773/2020 passed by the High Court Of Judicature At Allahabad)

NEERAJ

Petitioner(s)

VERSUS

THE STATE OF UTTAR PRADESH & ORS.

Respondent(s)

(FOR ADMISSION and I.R. and IA No.73626/2020-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.73625/2020-EXEMPTION FROM FILING O.T.)

WITH

SLP(Cr1) No. 3774/2020 (II)

(FOR ADMISSION and I.R. and IA No.78181/2020-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.78178/2020-EXEMPTION FROM FILING O.T. and IA No.78183/2020-PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)

Date : 10-12-2020 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE A.M. KHANWILKAR

HON'BLE MR. JUSTICE B.R. GAVAI

For Petitioner(s)

Mr. Rahul Sharma, Adv.
Mr. S. Santanam Swaminadhan, Adv.
Mr. Deepak Agarwal, Adv.
Ms. Abhilasha Shrawat, Adv.
Mrs. Aarthi Rajan, AOR

For Respondent(s)

Mr. Ardhendumauli Kumar Prasad, AOR

Mr. Pradeep Kumar Yadav, Adv.
Mr. Vishal Thakre, Adv.
Mr. Abhay Singh Yadav, Adv.
Mr. Sanjeev Malhotra, AOR

UPON hearing the counsel the Court made the following

O R D E R

Leave granted.

The appeals are disposed of in terms of the signed order.

Pending applications, if any, stand disposed of.

(DEEPAK SINGH)
COURT MASTER (SH)

(VIDYA NEGI)
COURT MASTER (NSH)

[Signed order is placed on the file]