

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL NO 15 OF 2020
(@ SLP (CrI) No 5315 of 2019)

A.K. Khanna & Anr.

Appellant(s)

Versus

The State of Rajasthan & Anr.

Respondent(s)

ORDER

1 Leave granted.

2 This appeal arises from an order dated 25 February 2019 of the learned Single Judge of the High Court of Judicature at Rajasthan in SB Criminal Misc Petition No 938 of 2019. The High Court by its order dismissed the petition under Section 482 of the Code of Criminal Procedure 1973¹ with the following observation:

“Order dated 14.11.2014 has been assailed in the present petition. The impugned order was passed five years ago. Present petition suffers from delay and laches and the same is dismissed.”

3 The second respondent was appointed as a Brand Executive of Emcure Pharmaceuticals Limited. The terms of appointment contained in clause ‘E’ envisaged a condition of transferability, which reads as follows:

¹“CrPC”

“E. Deputation/Transfer

Your services are liable to be deputed or transferred to any other Department of the Company or to any other Company in the Group or to any place in India, if necessary.”

4. The second respondent was transferred on 1 February 2010 from Ajmer to Ahmedabad. On 14 April 2010, his services were terminated. Learned counsel appearing on behalf of the second respondent has apprised the court of the fact that the order of termination was the subject matter of a reference under Section 10 of the Industrial Disputes Act 1947², which resulted in an award in favour of the second respondent by the Labour Court. On 12 May 2011, the Additional Labour Commissioner passed an order granting sanction for the prosecution of the appellants as Executive Officer and Deputy Director of Human Resources. On 30 May 2011, a corrigendum was issued that the sanction had been granted under Section 25(R) read with Section 34 of the Industrial Disputes Act. The second respondent submitted an application before the Chief Judicial Magistrate, Ajmer³ for registration of a criminal case. The CJM took cognizance on 27 June 2012 and directed that the appellants be summoned.

²“Industrial Disputes Act”

³“CJM”

5 A Writ Petition was filed before the High Court for challenging the order of the Additional Labour Commissioner dated 12 May 2011 and 30 May 2011. By a judgment dated 20 August 2014, a Single Judge of the High Court set aside the order of the Additional Labour Commissioner granting sanction to prosecute. An application was filed by the appellants before the CJM, praying that the criminal proceedings be dropped in view of the order of sanction being quashed. An order was passed on 20 November 2014, rejecting the application on the ground that the Magistrate did not have the jurisdiction to recall the order taking cognizance.

6 The order of the learned Single Judge quashing the sanction was challenged in a Special Appeal before a Division Bench of the High Court. The Division Bench by its judgment dated 20 October 2016 affirmed the judgment of the learned Single Judge. The order of the Division Bench was challenged before this Court by the second respondent in Special Leave Petition (C) Diary No 39195/2019. By an order dated 2 December 2019, this Court dismissed the Special Leave Petition.

7 A petition under Section 482 of the CrPC was instituted by the appellants before the High Court for quashing the complaint filed by the second respondent. The High Court by its impugned order dated 25 February 2019 dismissed the petition on the ground of delay.

8 From the narration of facts, it has emerged that the very basis of the criminal proceedings has ceased to exist since the sanction has been quashed by the High Court. The order quashing the sanction for prosecution granted by the Additional Labour Commissioner has attained finality upon the dismissal of the Special Leave Petition on 2 December 2019. In the circumstances, the High Court was in error in declining to entertain the proceedings under Section 482 of the CrPC.

9 We accordingly allow the appeal and set aside the impugned order of the High Court dated 25 February 2019 and quash Criminal Case No 519/2012 titled as "Mukesh Panchori vs. A.K.Khanna and Anr.", pending before the Chief Judicial Magistrate, Ajmer.

.....J.
[Dr Dhananjaya Y Chandrachud]

.....J.
[Hrishikesh Roy]

**New Delhi;
January 7, 2020**

ITEM NO.24

COURT NO.8

SECTION II

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

Criminal Appeal No(s).15/2020

A.K. KHANNA & ANR.

Appellant(s)

VERSUS

THE STATE OF RAJASTHAN & ANR.

Respondent(s)

(FOR ADMISSION and I.R. and IA No.90256/2019-PERMISSION TO FILE
ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)

Date : 07-01-2020 This appeal was called on for hearing today.

CORAM : HON'BLE DR. JUSTICE D.Y. CHANDRACHUD
HON'BLE MR. JUSTICE HRISHIKESH ROY

For Appellant(s) Mr. J.P. Cama, Sr. Adv.
Mr. Ashutosh Kumar, Adv.
Mr. Adarsh Bhushan, Adv.
Ms. Natabrata Bhattacharya, Adv.
Ms. Malvika Kapila, AOR

For Respondent(s) Dr. Manish Singhvi, Sr. Adv.
Mr. Shailja Nanda Mishra, Adv.
Mr. Arpit Prakash, Adv.
Mr. D.K. Devesh, Adv.

Ms. Meera Mathur, AOR

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

Leave granted.

The appeal is allowed in terms of the signed order.

Pending application, if any, stands disposed of.

(ASHOK RAJ SINGH)
COURT MASTER (SH)

(SAROJ KUMARI GAUR)
BRANCH OFFICER

(Signed order is placed on the file)