

ITEM NO.17 Court 7 (Video Conferencing) 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

Petition(s) for Special Leave to Appeal (CrI.) No(s). 6674/2021

(Arising out of impugned final judgment and order dated 29-07-2021
in CRLP No. 478/2020 passed by the Gauhati High Court)

SHYAMAL MITRA

Petitioner(s)

VERSUS

THE STATE OF ASSAM & ANR.

Respondent(s)

(FOR ADMISSION and I.R. and IA No.110915/2021-EXEMPTION FROM FILING
C/C OF THE IMPUGNED JUDGMENT and IA No.110917/2021-EXEMPTION FROM
FILING O.T.)

Date : 13-09-2021 This petition was called on for hearing today.

CORAM : HON'BLE MS. JUSTICE INDIRA BANERJEE
 HON'BLE MR. JUSTICE J.K. MAHESHWARI

For Petitioner(s) Mr. Kaushik Choudhury, AOR

For Respondent(s)

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

Heard learned counsel for the petitioner.

2. On or about 16th June, 2020, the Respondent No.2 lodged an FIR before the Changsari Police Station stating that the Respondent No.2 had loaded a truck bearing Registration No.AP 39 U 6219 with dried Areca Nut (supari) from their warehouse situated at Brahmaputra Industrial Park, Gauripur on 13th June, 2020, but the vehicle was not traceable and the mobile phones of the driver and the helper of the said truck were switched off.

3. On or about 13th July, 2020, police personnel from the Changsari Police Station visited the godown of the Petitioner located at his residence and seized two Bolero Pick-up vans bearing Registration No. AS 18 C 9029 and AS 25 CC 7192. Each of the vehicles was loaded with 60 bags of dried Areca Nuts. Another lot of 234 bags of dried Areca Nuts each bag weighing approximately 50/52 kgs were seized from the godown of the Petitioner.

4. On 28th July, 2020, the Petitioner filed an application under Section 451/457 of the Code of Criminal Procedure being Zimma Petition No. 567/2020 praying for the custody of these 354 bags of Areca Nuts. On or about 3rd August, 2020, the Respondent No.2 filed Petition No. 980/2020 taking its objection to the Zimma Petition No.567/2020. The Respondent No.2 also filed an application under Section 451/457 of the Cr.P.C. being Zimma Petition No. 1067/2020 on or about 7th August, 2020, praying for custody of the said bags of Areca Nuts.

5. On 14th August, 2020, the Petitioner submitted a petition being Petition No. 991/2020 before the Trial Court praying for directions on the Respondent No.2 to supply copies of objection Petition No.980/2020 and the Zimma Petition No. 1067/2020 filed on 3rd August, 2020 and 7th August, 2020 along with supporting documents.

6. The Trial Court permitted the Respondent No.2 to file second objection. Being purportedly aggrieved by the filing of the subsequent objection, the petitioner filed a petition No.1000/2020

challenging the maintainability of the second Objection Petition No.997/2020.

7. On or about 4th September, 2020, the Respondent No.2 replied to the said Petition No. 1000/2020 stating that on 3rd August, 2020, when he filed his first objection, he did not have any copy of the Zimma Petition No.567 of 2020. The second objection petition was prepared after receipt of a copy of the Zimma Petition and was filed on 20th August, 2020.

8. By an order dated 17th September, 2020, the Trial Court held that the second objection petition was maintainable. The learned Trial Court noted that the petitioner had received documents after 4th August, 2020 and hence had to file a second objection. The Court found that there is no bar in law in filing second or subsequent objection to any petition. There was no patent error in the order.

9. Being aggrieved by the aforesaid order, the Petitioner filed a petition in the High Court under Section 482 of the Code of Criminal Procedure being Criminal Petition No.478/2020. Affidavits were duly exchanged. By the impugned judgment and order, the High Court dismissed the Criminal Revision Petition with a direction on the Trial Court to take up the Zimma Petition at the earliest and to consider each and every petition/objection filed by both the parties. There is no infirmity in the impugned order of the High Court upholding the impugned order of the Trial Court which observed that there is no bar in law to a second objection being

filed.

10. We find no grounds to interfere with the impugned judgment and order of the High Court, rejecting the petition filed by the petitioner under Section 482 of the Code of Criminal Procedure. As rightly held by the High Court, the inherent jurisdiction may be exercised, namely, (i) to give effect to an order of the court; (ii) to prevent abuse of process of court; and (iii) to otherwise secure the ends of justice.

11. The special leave petition is, accordingly, dismissed. Needless to mention that any observations made in the impugned judgment and order will not affect the trial.

13. Mr. Kaushik Choudhury, Learned counsel appearing for the petitioner submitted that the petitioner has not filed any reply to the objections filed by the Respondent No.2. The observation that a reply has been filed is erroneous. It is made clear that it will be open to the petitioner to file a reply to the objections, if the same has not yet been done.

14. Pending applications, if any, stand disposed of.

(GULSHAN KUMAR ARORA)
AR-CUM-PS

(MATHEW ABRAHAM)
COURT MASTER (NSH)