

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.1668 OF 2017
(@ SPECIAL LEAVE PETITION (CRL.) No. 1563 of 2016)

TEJ SINGH & ORS. . . . APPELLANT(S)

VERSUS

STATE OF U.P. & ANR. . . . RESPONDENT(S)

O R D E R

Leave granted.

Heard learned counsel for the parties and perused the record.

For the murder of one Rajeev Singh on 19.02.2013, the appellant No.1 Tej Singh, uncle of the deceased, lodged F.I.R. against Thath Singh, Amar Singh @ Ghhogghu, Kunwar Pal, Shiv Kumar and Vijay @ Vija. After investigation, they are being proceeded in a criminal trial.

Respondent No.2 - Pooran Singh @ Punna who is the cousin of Vijai-accused and brother of accused-Kunwar Pal and accused-Thath Singh sought to give a different version to implicate the appellant no. 1 Tej Singh, uncle of the deceased who is the de facto complainant in proceedings against the said accused for the very same offence.

This version was put forward for the first time in an application filed under Section 156(3) of the Code of Criminal Procedure on 05.04.2013 i.e. about one and half month after the occurrence. In the said proceedings, the investigating agency filed a closure report, rejecting the said version. On a protest petition, the appellants have been summoned as accused.

Learned counsel for the appellants points out that the proceedings initiated by Respondent No. 2 are clearly mala fide and abuse of law in making the prosecutor/witness an accused and making the accused the prosecutor. No doubt for the same offence different versions may be put forward, but the Court has to guard against the abuse of law which in the present case is patent and which the Courts below have failed to appreciate.

Accordingly, we allow this appeal and set aside the impugned order and quash the summoning of the appellants.

.....J.
[ADARSH KUMAR GOEL]

NEW DELHI
15th SEPTEMBER, 2017

.....J.
[UDAY UMESH LALIT]

ITEM NO.49+58

COURT NO.11

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 (Crl.) No(s). 5062/2017
(Arising out of impugned final judgment and order dated 08-05-2017
in CRLMA No. 14238/2017 passed by the High Court Of Judicature At
Allahabad)

VIJAI @ BEEJA

Petitioner(s)

VERSUS

STATE OF UTTAR PRADESH & ANR.

Respondent(s)

(FOR ADMISSION and I.R. and IA No.55338/2017-EXEMPTION FROM FILING
O.T.)

With

SLP(Crl.)NO. 1563 of 2016

Date : 15-09-2017 These petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ADARSH KUMAR GOEL
HON'BLE MR. JUSTICE UDAY UMESH LALIT

For Petitioner(s) Mr. Anupam Dwivedi, Adv.
Mr. Pankaj Kr. Singh, Adv.
Mr. Manindra Dubey, Adv.
Dr. Vinod Kumar Tewari, AOR

Petitioner in SR 1563/16
& Respt. No.2
In SR 5062/17 Mr. Yatinder Kr. Singh, Sr. Adv.
Mr. Ajay Kumar Singh, Adv.
Ms. Sheenu Chauhan, Adv.
Mr. Prakash Gautam, Adv.

For Respondent(s) Mr. D.K. Singh, AAG
Mr. Rahul Chitnis, Adv.
Mr. Ardhendumaulu Kumar Prasad, Adv.
Miss. Komal Mundhra, Adv.
Mr. Saurabh Agrawal, Adv.

MR. Jitender Mohan Sharma, Sr. Adv.
Mr. Ajit Sharma, Adv.
Mr. Sandeep Singh, Adv.

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

SLP(Crl.)No. 5062/2017

Heard learned counsel for the parties.

We do not find any ground to interfere with the impugned order.

The special leave petition is dismissed.

Pending application(s), if any, shall also stand disposed of.

SLP(Crl.)NO.1563 of 2016

Leave granted.

The appeal is allowed in terms of the signed order.

Pending application(s), if any, shall also stand disposed of.

(MADHU BALA)

COURT MASTER (SH)

(Signed order in SLP(Crl.)No. 1563/2016 is placed on the file)

(PARVEEN KUMARI PASRICHA)

BRANCH OFFICER