

IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 1112 OF 2017

(Arising out of SLP (Criminal) No. 611 of 2016)

ANIL SARAN

... Appellant

VERSUS

THE STATE OF BIHAR & ANR.

... Respondents

O R D E R

Leave granted.

This appeal has been filed against judgment dated 19.09.2015 passed by the High Court of Judicature at Patna in a case arising out of P.S. Case No. 141 of 2011. The appellant had filed an application before the High Court under Section 482 of the Code of Criminal Procedure (Cr.P.C.) praying for quashing of the entire criminal proceeding including the order dated 06.02.2012 passed by Chief Judicial Magistrate in P.S. Case No. 141 of 2011 by which Chief Judicial Magistrate took cognizance of offences punishable under Sections 341, 323 and 504 read with Section 34 of the Indian Penal Code (IPC) against the appellant. The High Court vide the impugned judgment has allowed the prayer of the appellant and quashed the entire proceedings including order dated 06.02.2012 passed by the Chief Judicial Magistrate in PS Case No. 141 of 2011. However, while

allowing the application filed by the appellant, the High Court also passed the following order:

"Also in the interest of the parties, the further proceeding of Chapra (T) P.S. Case No. 183 of 2010, Complaint Case No. 1918 of 2009, Chapra (T) P.S. Case No. 167 of 2009 and Chapra Town P.S. Case No. 177 of 2012 pending before the respective Magistrates, Saran at Chapra be dropped."

The appellant, aggrieved by the abovementioned order by which the proceeding in P.S. Case No. 183 of 2010 has been dropped, has come up in this appeal. The appellant's case in this appeal is that for quashing the proceeding in P.S. Case No. 183 of 2010, the second respondent along with others had filed Criminal Miscellaneous No. 21690 of 2011 under Section 482 Cr.P.C. for quashing the order passed by Chief Judicial Magistrate and proceedings of case No. PS Case No. 183 of 2010. The High Court has dismissed the above application under Section 482 Cr.P.C. insofar as Gorakh Sah, i.e., the second respondent to this appeal is concerned.

The counsel appearing for the second respondent before the High Court in the said application had contended that proceedings be quashed since the dispute between the parties is a dispute of civil nature. However, although the High Court quashed the proceedings insofar as the other applicants are concerned, it denied quashing insofar as the second respondent is concerned.

Learned counsel appearing for the appellant contended that since by exercising jurisdiction under Section 482 Cr.P.C., the High Court has already refused the prayer of second respondent for quashing P.S. Case No. 183 of 2010, the High Court by exercising jurisdiction under Section 482 Cr.P.C., that too, in an application filed by the appellant, could not have dropped the said proceeding. It is submitted that the High Court had dropped the said proceeding without there being any prayer and without there being any application. However, learned counsel appearing for the respondent in support of the order contends that the High Court passed the order dropping the criminal proceeding against the second respondent in view of the fact that the parties were negotiating the matter and the High Court thought it proper to drop the proceedings.

We have considered the submissions of the parties and perused the records.

The High Court was exercising jurisdiction under Section 482 Cr.P.C. at the instance of the appellant who had filed an application praying for quashing the order of Chief Judicial Magistrate dated 06.02.2012 taking cognizance in PS Case No. 141 of 2011. The High Court noticed the fact that the parties are in the process of sorting out their differences in the criminal proceedings. Hence, order of the Chief Judicial Magistrate dated 06.02.2012 and proceedings in

P.S. Case No. 141 of 2011 were set aside.

The order of the High Court setting aside order dated 06.02.2012 and the proceedings in P.S. Case No. 141 of 2011 are not the subject matter of challenge before us. What is under challenge is the order of the High Court dropping the proceeding in P.S. Case No. 183 of 2010 which was the proceeding against second respondent and the second respondent's prayer for quashing the said proceeding was refused by the High Court vide its earlier order dated 28.02.2013 passed in Criminal Miscellaneous No. 21690 of 2011. The High Court without taking note of earlier order dated 28.02.2013 has dropped the proceedings. It is further to be noticed that before the High Court there was no prayer for dropping the proceeding of Case No. 183 of 2010 since no application was filed by the second respondent praying for quashing the proceedings on any ground including subsequent event of negotiations between the parties. We are of the considered opinion that the High Court on the application filed by the appellant for quashing the proceeding in PS Case No. 141 of 2011, could not have directed for dropping P.S. Case No. 183 of 2010 which were proceedings against the second respondent, more so, when the High Court had earlier refused quashing of such proceeding against second respondent.

In view of the above, the order of the High Court

CRIMINAL APPEAL NO. 1112/ 2017
(@ SLP (Crl.) No. 611/ 2016)

dropping P.S. Case No. 183 of 2010 is set aside. The appeal
is, accordingly, allowed.

....., J.
[A.K. SIKRI]

....., J.
[ASHOK BHUSHAN]

New Delhi;
July 10, 2017.

ITEM NO.45

COURT NO.7

SECTION II-A

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. 611/2016

(Arising out of impugned final judgment and order dated 19-02-2015
in CRM No. 20797/2012 passed by the High Court of Judicature at
Patna)

ANIL SARAN

Petitioner(s)

VERSUS

THE STATE OF BIHAR & ANR.

Respondent(s)

(With appln(s) for exemption from filing O.T.)

Date : 10-07-2017 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE A.K. SIKRI
HON'BLE MR. JUSTICE ASHOK BHUSHAN

For Petitioner(s)

Mr. Abhay Prakash Sahay, Adv.
Mr. Amit Kishore Sinha, Adv.
Mr. Himanshu Shekhar, AOR

For Respondent(s)

Mr. Abhinav Mukerji, AOR
Ms. Bihu Sharma, Adv.

Mr. Chandan Kumar, Adv.
Mr. Chandra Prakash, 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.

(NIDHI AHUJA)
COURT MASTER

(MALA KUMARI SHARMA)
COURT MASTER

[Signed order is placed on the file.]