

IN THE SUPREME COURT OF INDIA  
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 335 OF 2020

STATE OF PUNJAB

APPELLANT(S)

VERSUS

JASBIR SINGH

RESPONDENT(S)

O R D E R

1. We have heard learned counsel for the parties.

2. The issue involved in this case was referred by a Division Bench vide order dated 26.02.2020 to be answered by a larger bench. The following questions were formulated for answer by larger bench:-

“(i) Whether Section 340 of the Code of Criminal Procedure, 1973 mandates a preliminary inquiry and an opportunity of hearing to the would-be accused before a complaint is made under Section 195 of the Code by a Court?

(ii) What is the scope and ambit of such preliminary inquiry?”

3. The aforesaid two questions posed stand answered by a three Judge Bench of this Court vide judgment and order dated 15.09.2022 as under:-

*"On having considered the matter, it is our view that the Constitution Bench's view would naturally prevail that makes the legal position quite abundantly clear. Not only that, if we may notice, what is reported in Sharad Pawar's case (supra) is only an order and not a judgment. An order is in the given factual scenario. The judgment lays down the principles of law. The scenario is that any order or judgment passed by this Court becomes a reportable exercise to create more volumes of 5 reported cases! This thus has a possibility at times of causing some confusion on the legal principles prevalent. The observations in the quoted paragraph extracted aforesaid apparently came out of the flow of the order rather than pronouncing any principles of law and that is why the Bench itself categorized what is observed as an order i.e, in the given factual scenario.*

*We have little doubt that there is no question of opportunity of hearing in a scenario of this nature and we say nothing else but that a law as enunciated by the Constitution Bench in Iqbal Singh Marwah's case (supra) is in line with what was observed in Pritish's case (supra).*

*Interestingly both the judgments in Pritish's case and the Constitution Bench judgment in Iqbal Singh Marwah's case (supra) have not been noted in order passed in Sharad Pawar's Case (supra). The answer thus to the first question raised would be in the negative.*

*Insofar as the second question is concerned, the scope and ambit of such a*

*preliminary inquiry, also stands resolved in terms of the Constitution Bench judgment of this Court in the Iqbal Singh Marwah's case (supra) as referred to aforesaid.*

*The reference is answered accordingly."*

4. In view of the answers given by a larger Bench, the criminal appeal is liable to be allowed and is hereby accordingly stands allowed.

5. As a consequence, the FIR No. 74 dated 13.04.2008 registered at Police Station Patti, District Taran Tarn, Punjab which was quashed, stands revived. Further proceedings shall automatically follow in accordance with law and the procedure prescribed after revival of the FIR.

.....J.  
( KRISHNA MURARI )

.....J.  
( SANJAY KUMAR )

NEW DELHI  
03<sup>rd</sup> MAY, 2023

ITEM NO.114

COURT NO.13

SECTION II-B

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). 335/2020

STATE OF PUNJAB

Appellant(s)

VERSUS

JASBIR SINGH

Respondent(s)

Date : 03-05-2023 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE KRISHNA MURARI  
HON'BLE MR. JUSTICE SANJAY KUMAR

For Appellant(s)

Ms. Rooh-e-hina Dua, AOR  
Mr. Harshit Khanduja, Adv.

For Respondent(s)

Mr. Yajur Bhalla, Adv.  
Ms. Ragini Sharma, Adv.  
Mr. Deepak Samota, Adv.  
Mr. Sumeir Ahuja, Adv.  
Mr. Shubham Bhalla, AORUPON hearing the counsel the Court made the following  
O R D E R

The criminal appeal is allowed in terms of the signed order. Pending application(s), if any, shall stand disposed of.

(SONIA GULATI)  
SENIOR PERSONAL ASSISTANT

(BEENA JOLLY)  
COURT MASTER (NSH)