

ITEM NO.19

Court 8 (Video Conferencing)

SECTION II

S U P R E M E C O U R T O F I N D I A

RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Cr1.) No(s). 5962-5963/2020

(Arising out of impugned final judgment and order dated 27-05-2020 in CRLMA No. 1016/2015 27-05-2020 in CRLR No. 145/2015 passed by the High Court Of Uttarakhand At Nainital)

THE STATE OF UTTARAKHAND

Petitioner(s)

VERSUS

BHUWAN CHANDRA JOSHI & ORS.

Respondent(s)

( IA No.121630/2020-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.121629/2020-EXEMPTION FROM FILING O.T. )

Date : 22-03-2021 These petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SANJAY KISHAN KAUL

HON'BLE MR. JUSTICE R. SUBHASH REDDY

For Petitioner(s) Mr. Tushar Mehta, SG  
Ms. Ruchira Gupta, Adv.  
Mr. Jatinder Kumar Bhatia, AOR  
Mr. Ashutosh Kumar Sharma, Adv.

For Respondent(s)

UPON hearing the counsel the Court made the following

O R D E R

Learned Solicitor General fairly states before us that it would be well-nigh impossible to assail the impugned order on merits but expresses concern over the directions which have been issued in para 34. We may note that the directions being issued by learned Single Judge with the avowed object of maintaining the independence of the prosecuting agency as well as the independence of the judiciary. His concern, however, is that the directions may run contrary to the Constitution Bench judgment of this Court in *Sheonandan Paswan v. State of Bihar* - (1987) 1 SCC 288 and the judgments of this Court in *Abdul Karim v. State of Karnataka* - (2000) 10 SCC 710, *Bairam Muralidhar v. State of A.P.* (2014) 10 SCC 380 and *S.K. Shukla v. State of U.P.* (2006) 1 SCC 314.

In view it would suffice to say if any aspect of the directions in the impugned order were to run contrary to the law laid down by this Court in the aforesaid judgments, naturally, the law laid down by this Court would prevail and to the extent a

direction may run contrary to the same it will not have force of law.

With the aforesaid clarification the Special Leave Petitions stand disposed of.

Pending applications stand disposed of.

(ASHA SUNDRIYAL)

ASTT. REGISTRAR-cum-PS

(POONAM VAID)

COURT MASTER (NSH)