

IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO(S) 1159 OF 2017
[Arising out of Special Leave Petition
(Criminal) No.6861 of 2014]

MAYANAND PRASAD & ANR. . . APPELLANT (S)

VERSUS

STATE OF BIHAR & ORS. . . RESPONDENT (S)

ORDER

1. Leave granted.
2. The challenge in this appeal is against the order of the High court of Patna dated 24th March, 2014 passed in Criminal Writ No.599 of 2013 refusing to quash the criminal proceedings arising out of FIR of Patrakar Nagar P.S. Case No.130 of 2013 qua the accused appellants.

3. The prosecution sought to be initiated against the accused appellants, who are doctors by profession, are under Sections 121, 121A, 124A, 216A, 120B read with Section 34 of the Indian Penal Code, 1860.

4. We have perused the FIR wherein it has been, *inter alia*, stated as follows:

"Therefore the aforesaid occurrence automatically makes it clear that all the aforesaid four persons in collusion with, M.N. Prasad and other members of the management there secretly having the treatment of injured naxalite Pappu Kumar Yadav @ Indrajit @ Kapil Jee who has sustained gunshot injury in police encounter. And thus in spite of being a medico legal case they were helping them and getting financial benefit without informing the police along with this they were also helping the Maoists to set their injured colleague Pappy Kumar Yadav @ Indrajit free in the name of higher centre referral for better treatment."

5. If the allegation against the accused appellants in the FIR is what has been indicated and extracted above, we do not see how, even remotely, any of the offences alleged could be said to have been made out. The sum and substance of the allegation against the present accused is that they were rendering medical assistance to an injured Maoist for monetary gain without informing the Police. The prosecution against the accused appellants under the said provisions of the IPC, on the allegations made, is bound to be a sham and a lame prosecution. Accordingly, we are of the view that the same should be interdicted at the threshold. The proceedings against the accused appellants are accordingly quashed; the order of the High Court is set aside and the appeal is allowed. We make it clear that the observations as recorded above will not

impede the trial which is stated to be proceeding against some of the other accused.

.....,J.
(RANJAN GOGOI)

.....,J.
(NAVIN SINHA)

NEW DELHI
JULY 14, 2017

ITEM NO.49

COURT NO.4

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(S). 6861/2014
(ARISING OUT OF IMPUGNED FINAL JUDGMENT AND ORDER DATED 24-03-2014
IN CRLWP NO. 599/2013 PASSED BY THE HIGH COURT OF PATNA)

MAYANAND PRASAD & ANR.

PETITIONER(S)

VERSUS

STATE OF BIHAR & ORS.

RESPONDENT(S)

Date : 14-07-2017 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE RANJAN GOGOI

HON'BLE MR. JUSTICE NAVIN SINHA

For Petitioner(s)

Mr. Samir Ali Khan, Adv.

Mr. Kaushik Poddar, AOR

For Respondent(s)

Mr. Abhinav Mukerji, AOR

Mrs. Bihu Sharma, Adv.

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.

(VINOD LAKHINA)

AR-cum-PS

(ASHA SONI)

BRANCH OFFICER

[SIGNED ORDER IS PLACED ON THE FILE]