

ITEM NO.16 & 16.1

Virtual Court No.5

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

SPECIAL LEAVE PETITION (CRIMINAL) Diary No(s). 2400/2020

(Arising out of impugned final judgment and order dated 12-02-2019 in CRMA No. 110/2012 passed by the High Court Of Uttarakhand At Nainital)

JAGDISH CHANDRA PATHAK

Petitioner(s)

VERSUS

THE STATE OF UTTARAKHAND & ANR.

Respondent(s)

(FOR ADMISSION and Interim Relief and IA No.40670/2020-CONDONATION OF DELAY IN FILING and IA No.40676/2020-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.40678/2020-EXEMPTION FROM FILING O.T. and IA No.40674/2020-CONDONATION OF DELAY IN REFILING/CURING THE DEFECTS)

WITH

SPECIAL LEAVE PETITION (CRIMINAL) Diary No(s). 6152/2020 (II)

(Arising out of impugned final judgment and order dated 27.09.2019 in CRL.MISC.Application No.27/2019 passed by the High Court Of Uttarakhand At Nainital)

JAGDISH CHANDRA PATHAK

Petitioner(s)

VERSUS

THE STATE OF UTTARAKHAND & ANR.

Respondent(s)

(FOR ADMISSION and Interim Relief and IA No.43894/2020-CONDONATION OF DELAY IN FILING and IA No.43895/2020-EXEMPTION FROM FILING O.T.)

Date : 27-05-2020 These petitions were called on for hearing today.

CORAM :

HON'BLE MRS. JUSTICE R. BANUMATHI
HON'BLE MS. JUSTICE INDU MALHOTRA
HON'BLE MR. JUSTICE ANIRUDDHA BOSE

For Petitioner(s) Ms. Neeraj Kumar Sharma, AOR
Ms. Nidhi Agarwal, Adv.

For Respondent(s)

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

ITEM NO.16

SPECIAL LEAVE PETITION (CRL.) DIARY NO.2400 OF 2020:

The Court is convened through video conferencing.

Delay condoned.

We have heard Ms. Neeraj Kumar Sharma, learned counsel appearing for the petitioner.

This special leave petition has been preferred against the order of the High Court of Uttarakhand at Nainital dismissing Criminal Misc. Application No.110 of 2012 filed by the petitioner stating that Section 197(2) of the Cr.P.C. has no role in the present case on the basis of the complaint lodged by the Judicial Magistrate, Ranikhet, the Chief Judicial Magistrate, Almora has taken cognizance of the matter in Criminal Complaint NO.1295/2001. The petitioner-Jagdish Chandra Pathak was then at the relevant point of time was SHO/Incharge of the Ranikhet Police Station, District Almora.

Since Criminal Complaint No.1295/2001 is pending before the Chief Judicial Magistrate, Almora, we are not inclined to interfere with the impugned order.

However, we grant liberty to the petitioner to raise all the contentions including the question of applicability of Section 197(2) of the Cr.P.C. before the Trial Court.

Learned Trial Court Magistrate/Chief Judicial Magistrate, Almora, shall consider all the questions raised by the petitioner including the applicability of Section 197(2) of the Cr.P.C. on its merits without being influenced by any of the observations made by

the High Court in the impugned order.

The special leave petition is disposed of with the above observations.

Pending applications, if any, shall also stand disposed of.

(MAHABIR SINGH)
AR-cum-PS

(BEENA JOLLY)
BRANCH OFFICER

ITEM NO.16.1

Virtual Court No.5

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

SPECIAL LEAVE PETITION (CRIMINAL) Diary No(s). 6152/2020 (II)

(Arising out of impugned final judgment and order dated 27.09.2019 in CRL.MISC.Application No.27/2019 passed by the High Court Of Uttarakhand At Nainital)

JAGDISH CHANDRA PATHAK

Petitioner(s)

VERSUS

THE STATE OF UTTARAKHAND & ANR.

Respondent(s)

(FOR ADMISSION and Interim Relief and IA No.43894/2020-CONDONATION OF DELAY IN FILING and IA No.43895/2020-EXEMPTION FROM FILING O.T.)

Date : 27-05-2020 This petition was called on for hearing today with Item no.16.

CORAM :

HON'BLE MRS. JUSTICE R. BANUMATHI
HON'BLE MS. JUSTICE INDU MALHOTRA
HON'BLE MR. JUSTICE ANIRUDDHA BOSE

For Petitioner(s) Ms. Neeraj Kumar Sharma, AOR
Ms. Nidhi Agarwal, Adv.

For Respondent(s)

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

ITEM NO.16.1SPECIAL LEAVE PETITION (CRL.) DIARY NO.6152 OF 2020:

The Court is convened through video conferencing.

Delay condoned.

We have heard Ms. Neeraj Kumar Sharma, learned counsel appearing for the petitioner.

So far as this special leave petition is concerned the petitioner is directed to file a detailed additional affidavit well in advance stating : (i) the present position of Pradeep Pant, the

then Judicial Magistrate First Class, Ranikhet; (ii) the present position of the then Chief Judicial Magistrate, Almora, who has taken Criminal Complaint No.1295/2001 dated 3.5.2004; and (iii) the name of the present District Judge of Almora.

The matter be listed on 03.06.2020.

Learned counsel for the petitioner shall serve notice upon the standing counsel of the State of Uttarakhand before the next date of hearing.

(MAHABIR SINGH)
AR-cum-PS

(BEENA JOLLY)
BRANCH OFFICER