

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.540 OF 2017
(Arising out of S.L.P. (Cr1) No.8309 of 2013)

BINOD KUMAR TIWARY Appellant(s)

Versus

BUCHUL SINGH AND OTHERS Respondent(s)

W I T H

CRIMINAL APPEAL NO.553 OF 2017
(Arising out of S.L.P. (Cr1.) No.8453 of 2013)

BINOD KUMAR TIWARY Appellant(s)

Versus

RAJA RAM SINGH AND ANOTHER Respondent(s)

O R D E R

Leave granted.

1. These appeals by special leave are directed against the common judgment and order dated 01-08-2013 passed by the High Court of Judicature at Patna in Criminal Miscellaneous No 47222 of 2008 and Criminal Miscellaneous No 50401 of 2008 respectively.

2. The brief facts of the case as per prosecution is that, appellant who is working in the Army purchased a piece of land in Khara No 5, Khata No 12 situated at Karakaat, District Rohtas, Bihar on

which cultivation is being carried on. Appellant due to his employment is stationed in Jammu and Kashmir. Taking advantage of appellant's posting, respondents used to forcibly take away the crops grown in his field and cause him losses.

3. Appellant lodged two FIRs with PS Karakaat, First, on 12-03-2006 against the respondents in Criminal Appeal No 8309 of 2013. Second, on 09-12-2007 against the sole respondent in Criminal Appeal No 8453 of 2013. Police, in both the FIRs after conducting investigations filed charge-sheets in the Learned Court of Judicial Magistrate 1st Class, Bikramgram. The Learned Court took cognizance in both the FIRs vide order dated 24-11-2006 and 07-08-2008 respectively.

4. Aggrieved by the orders dated 24-11-2006 and 07-08-2008 passed by the Learned Judicial Magistrate 1st Class, respondents filed Criminal Miscellaneous Petitions under Section 482 of the Criminal Procedure Code before the High Court.

5. The High Court quashed the orders passed by the Learned Judicial Magistrate 1st Class, vide its common order dated 01-08-2013 by observing that the dispute is 'purely civil in nature.'

6. Aggrieved by the order of the High Court, appellant impugnes the same in two Criminal Appeals.

7. This Court issued notice to the respondents on 18-10-2013. The matter was listed thereafter before the Court from time to time. Since, the respondents in both the Criminal Appeals were not represented, bailable warrants were issued against them, and the same were duly executed against them. Despite that none appeared.

8. It is submitted by learned counsel for appellant that respondent no 1 in CA 8309 of 2013 expired. Therefore, appeal against respondent no 1 stands abated.

9. It is submitted by the learned counsel for appellant, that appellant purchased the said land and is the owner. As the appellant being posted in Jammu and Kashmir, respondents are taking undue advantage of the situation and are causing loss to him by cutting and taking away forcibly the crops grown in his field. Appellant is constrained to lodge police complaint/s because of the same.

10. It is also submitted that the High Court without service of notice and without affording opportunity to the appellant to present his case allowed both the Criminal Miscellaneous Petitions on the sole ground

that the dispute between the parties were 'purely of civil nature.'

11. We have perused the impugned order passed by the High Court and also other materials placed on record.

12. After taking into consideration all the facts, we are of the opinion that prima facie it was not a fit case for the High Court to quash the orders dated 26-11-2006 and 07-08-2008 respectively.

13. Accordingly, we allow both the appeals and set aside the impugned order passed by the High Court and restore the orders passed by the Learned trial court

14. We direct the trial Court to proceed with the cases pending before it and conclude the trial, and pass appropriate order/s, in accordance with law as expeditiously as possible.

.....J.
(N.V. RAMANA)

.....J.
(PRAFULLA C. PANT)

New Delhi,
March 01, 2017

ITEM NO.4

COURT NO.11

SECTION IIA

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). 8309/2013

(Arising out of impugned final judgment and order dated 01/08/2013 in CRLM No. 47222/2008 passed by the High Court Of Patna)

BINOD KUMAR TIWARY

Petitioner(s)

VERSUS

BUCHUL SINGH & ORS
(with appln. (s) for stay)

Respondent(s)

WITH

SLP(Crl) No. 8453/2013

(WITH APPLN. (S) FOR exemption from filing c/c of the impugned Judgment and exemption from filing O.T. and ex-Parte stay)

Date : 01/03/2017 These petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE N.V. RAMANA
HON'BLE MR. JUSTICE PRAFULLA C. PANT

For Petitioner(s)

Mr. Amit Pawan, Adv.
Mr. Abhishek Aamritanshu, Adkv.
Mr. Aknand Nandan, Adv.
Mr. Akshat Srivastava, Adv.
Mr. Gaurav Singh, Adv.

For Respondent(s)

Mr. Samir Ali Khan, Adv.

Mr. Ranbir Singh Yadav, Adv.
Mrs. Latika Rao, Adv.
Ms. Anzu K. Varkey, Adv.

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

Leave granted.

The appeals are allowed in terms of the signed order.

[SUKHBIR PAUL KAUR]

A.R.-CUM-P.S.

(Signed order is placed on the file)

[S.S.R. KRISHNA]

ASSISTANT REGISTRAR