

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.444 OF 2017
(Arising out of SLP(Crl.) No.9715 of 2013)

MANOJ KUMAR & ORS. . . . APPELLANT(S)

VERSUS

STATE OF UTTARAKHAND RESPONDENT(S)

WITH

CRIMINAL APPEAL NO.445 OF 2017
(Arising out of SLP(Crl.) No.9480 of 2013)

O R D E R

1. Leave granted.
2. We have heard learned counsels for the parties and perused the relevant material.
3. The challenge in these appeals is to an order of the High Court by which while considering the prayer for bail made by the accused-respondent (Arif @ Kala), the High Court took the view that the prosecution case was a concocted one and, therefore, in exercise of the power under Section 482 of

Cr.P.C., proceedings against the accused-respondent are required to be quashed. Not only that, the High Court directed that departmental proceedings as well as a criminal case be registered against the police officers, who were involved in the alleged investigation of the offence. The offence alleged against the accused-respondent co-incidentally relates to recovery of 6.5 kg. of charas which attracts the provisions of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, the N.D.P.S. Act). The present appeals are by the affected employees and also by the State of Uttarakhand.

4. We have perused the report/affidavit of the Senior Superintendent of Police, Dehradun, filed pursuant to the order of the High Court which form the basis of the High Court's order. Without expressing any final opinion on the correctness of either of the versions

projected before us, we are of the view that appropriate order in the present case would have been to grant bail to the accused-respondent and direct continuance of the trial against him instead of quashing the proceedings as a whole. The contents of the report of the Senior Superintendent of Police at best can constitute a part of the evidence in the case which remains to be tested in cross-examination. Further, the credibility of such evidence is required to be established in the light of the other evidences that may be forthcoming. Insofar as the initiation of the criminal proceedings against the erring police officers are concerned, we are of the view that the said order was pre-mature at the stage when it was passed and the direction for initiation of the departmental proceedings would have been sufficient.

5. We accordingly modify the order of the High Court in the above terms meaning

thereby that while the prosecution against the accused-respondent under the provisions of N.D.P.S. Act will now continue, he will continue to remain on bail in connection with the said proceedings as ordered by the High Court. The order of the High Court directing lodging of F.I.R. against the appellants in the appeal arising out of S.L.P.(Cr1.) No.9715 of 2013 is set aside but the departmental proceedings against the said appellants, which have been initiated, shall continue and be brought to its logical reason as expeditiously as possible.

6. With the aforesaid modification of the order of the High Court, these appeals are disposed of.

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

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

NEW DELHI
MARCH 02, 2017

ITEM NO.5

COURT NO.4

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

Petition(s) for Special Leave to Appeal (Crl.) No(s). 9715/2013

(Arising out of impugned final judgment and order dated 09/09/2013 in BA No. 977/2013 passed by the High Court of Uttarakhand at Nainital)

MANOJ KUMAR & ORS.

Petitioner(s)

VERSUS

STATE OF UTTARKHAND & ANR

Respondent(s)

(with appln. (s) for stay and office report)

WITH

SLP(Crl) No. 9480/2013

Date : 02/03/2017 These petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE RANJAN GOGOI

HON'BLE MR. JUSTICE NAVIN SINHA

For Petitioner(s) Mr. R.S. Sodhi, Sr. Adv.
Mr. Omkar Shrivastava, Adv.
Mr. Divyadeep Chaturvedi, Adv.
Mr. Ankit Kushwaha, Adv.
For Mr. Rameshwar Prasad Goyal, Adv.

Mr. Rajiv Nanda, Adv.

For Respondent(s) Mr. Parthiv K. Goswami, Adv.
Mr. Manan Verma, Adv.
Ms. Diksha Rai, Adv.

Mr. Bhuvneshwari Pathak, Adv.
Ms. Shilpi Satyapriya Satyam, Adv.
Mr. Rahul Kaushik, Adv.

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

Leave granted.

The appeals are disposed of in terms of the

signed order.

Pending application(s), if any, stand
disposed of.

(Neetu Khajuria)
Court Master

(Asha Soni)
Court Master

(Signed order is placed on the file.)