

ITEM NO.39

COURT NO.15

SECTION II-B

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). 9802/2019

(Arising out of impugned final judgment and order dated 01-08-2019  
in CRR No. 311/2018 passed by the High Court At Calcutta)

SUBIR BANERJEE & ANR.

Petitioner(s)

VERSUS

THE STATE OF WEST BENGAL

Respondent(s)

IA No. 163428/2019 - EXEMPTION FROM FILING O.T.)

Date : 06-01-2020 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE NAVIN SINHA  
HON'BLE MR. JUSTICE KRISHNA MURARI

For Petitioner(s) Mr. D.Banerjee,Adv.  
Mr. Abhijit Sengupta, AOR

For Respondent(s) Mr. Suhaan Mukerji,Adv.  
Mr. Vishal Prasad,Adv.  
Mr. Amit Verma,Adv.  
Mr. Abhishek Manchanda,Adv.  
Ms. kajal Dalal,Adv.for  
M/S. PLR Chambers And Co., AOR

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

Leave granted.

The Appeal is allowed.

(SUMAN WADHWA)  
AR CUM PS

(DIPTI KHURANA)  
COURT MASTER

Signed order is placed on the file.

IN THE SUPREME COURT OF INDIA  
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 2 OF 2020  
(Arising out of SLP(Cr1.) No. 9802/2019)

SUBIR BANERJEE

APPELLANT(S)

VERSUS

THE STATE OF WEST BENGAL

RESPONDENT(S)

O R D E R

Leave granted.

The present Appeal assails the order of the High court dismissing the application under Section 482 Cr.P.C. for quashing of prosecution instituted under Section 272 and 273 of the Indian Penal Code.

We have heard learned counsel for the parties at length.

According to the allegations, the appellant is a distributor of a renowned brand of cold drink. The complainant purchased a sealed cold drink bottle from the appellant. The allegation is very specific that the bottle was in a sealed condition. There are no allegations that the seal has been tampered in any manner in which case different consideration may have arisen.

We are of the considered opinion that if the complainant had purchased a sealed bottle of the cold drink, the appellant was only a distributor, there is no allegation of tampering with the seal and a lizard's tail was found in the cold drink bottle, the company was required to be made a necessary party, without which

no adjudication is possible to arrive at any conclusion. On that singular ground alone, we quash the proceedings in P.S. Case No. 324 of 2013, registered with P.S.Danakuni, District Hoogly, West Bengal.

The Appeal is allowed accordingly.

.....J  
(NAVIN SINHA)

.....J.  
(KRISHNA MURARI)

New Delhi;  
6th January, 2020.