

IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 45 OF 2017
(Arising out of SLP(Crl.) No. 9991 of 2016)

JYOTI SINGH .. APPELLANT(S)

VERSUS

VIVEK SWAROOOP AND ANR. .. RESPONDENT(S)

O R D E R

Leave granted.

Heard learned counsel on both sides.

The main contention of the learned counsel for the appellant is that the High Court proceeded to quash the FIR without being cognizant of a charge-sheet dated 19.05.2014 having being framed by the Court for the same offence. The learned counsel for the respondent is not in a position to controvert this fact.

In the circumstances, we find that the impugned order is vitiated inasmuch as it does not take cognizance of charges having been framed by the Court against the accused in the same matter. It is of no avail that the prayer was made to challenge the charge-sheet.

We, therefore, find that the matter needs re-consideration by the High Court after taking into account the charge-sheet dated 19.05.2014. The impugned order is, accordingly, set aside and the matter is remanded back to the High Court for fresh decision in

accordance with law.

The appeal is, accordingly, allowed.

All contentions are left open.

Respondent No. 1, Vivek Swaroop, shall not be arrested till the final order is passed by the High Court.

.....J.
[S.A. BOBDE]

.....J.
[L. NAGESWARA RAO]

NEW DELHI,
JANUARY 06, 2017.

ITEM NO.14

COURT NO.9

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). 9991/2016

(Arising out of impugned final judgment and order dated 04/10/2016 in CRLMA No. 437/2015 passed by the High Court Of Uttarakhand At Nainital)

JYOTI SINGH

Petitioner(s)

VERSUS

VIVEK SWAROOP AND ANR

Respondent(s)

(With interim relief)

Date : 06/01/2017 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE S.A. BOBDE
HON'BLE MR. JUSTICE L. NAGESWARA RAO

For Petitioner(s) Mr. Chinmoy Khaladkar, Adv.
Ms. Prerana Chaturvedi, Adv.
Mr. Srimunta Ray, Adv.
Mr. B.K. Pal, Adv.

For Respondent(s) Mr. Subramaniam Prasad, Sr. Adv.
Mr. Sanjiv Saxena, Adv.
Mr. Partha Sil, Adv.
Mr. Tavish B Prasad, 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.

Respondent No. 1, Vivek Swaroop, shall not be arrested till the final order is passed by the High Court.

[Charanjeet Kaur]
A.R.-cum-P.S.

[Indu Pokhriyal]
Court Master

[Signed order is placed on the file]