

IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL No. 1509 OF 2017

(Arising out of S.L.P. (Criminal) No.1862 of 2017)

RAJENDRA & ORS. .. APPELLANT(S)

Versus

THE STATE OF MAHARASHTRA & ANR. .. RESPONDENT(S)

O R D E R

1. Leave granted.

2. The present case arises from a F.I.R. lodged on 10th November, 2015 in which it was alleged that the complainant has delivered Soyabean purchased by the accused for the purposes of export, and even though the complainant supplied 10,100 quintals costs of which is Rs.3,92,90,061/- but the complainant received only an amount of Rs.1,76,28,654/- and the remaining amount of Rs.2,16,61,407/- was not paid by the accused though assurances were given to the complainant. A number of requests were made by the complainant for the said payment.

3. The learned counsel for the respondents points out that the F.I.R. has suffered in translation and that the true translation of the last part thereof reads as under:

"I have demanded the said amount from them for several times, but they have not paid, but on the contrary informed me on phone that you have not sent the goods and therefore there is no question of money, thus they cheated me.

The aforesaid traders Rajendra Agarwal and his sons (i) Anup Agarwal (ii) Ankush Agarwal (iii) Ayush Agarwal, by taking me in confidence had purchased Soyabean to the extent of 10,100 quintals and thus had committed breach of trust and cheated with an intention to, not to repay balance amount of Rs.2,16,61,407/- (Two crores sixteen lakhs sixty one thousand and four hundred seven) which was due and payable to me and therefore, the present F.I.R. against them."

4. The aforesaid translation furnished again does not make out ingredients of the offence of cheating or breach of trust. Except for merely using these terms it is clear that a civil dispute has been converted into a criminal proceeding. In the circumstances, we are of the view that the High Court was not correct in not quashing the aforesaid F.I.R. We do so.

5. The appeal is allowed accordingly.

.....J.
[ROHINTON FALI NARIMAN]

.....J.
[SANJAY KISHAN KAUL]

NEW DELHI,
AUGUST 28, 2017.

ITEM NO.1

COURT NO.12

SECTION II-A

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). 1862/2017

(Arising out of impugned final judgment and order dated 14-02-2017 in CRLA No. 244/2016 passed by the High Court of Judicature at Bombay At Aurangabad)

RAJENDRA & ORS.

Petitioner(s)

VERSUS

THE STATE OF MAHARASHTRA & ANR.

Respondent(s)

Date : 28-08-2017 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ROHINTON FALI NARIMAN
HON'BLE MR. JUSTICE SANJAY KISHAN KAUL

For Petitioner(s) Mr. Sushil Kumar Jain, Sr.Adv.
Mr. Puneet Jain, Adv.
Mr. A.B. Kharosekar, Adv.
Mr. Abhinav Gupta, Adv.
Mr. Shailendra Sharma, Adv.
Mr. Harsh Jain, Adv.
Ms. Yashika Sharma, Adv.
Ms.Pratibha Jain, AOR

For Respondent(s) Mr. Nitin V. Gaware, Adv.
Mr. Kailas B. Autade, Adv.
Mr. Sachin Patil, AOR

Nishant Ramakantrao Katneshwarkar, AOR

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

Leave granted.

The appeal is allowed accordingly.

(USHA RANI BHARDWAJ)
AR CUM PS

(SAROJ KUMARI GAUR)
BRANCH OFFICER

Signed order is placed on the file.