

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 (Crl) No(s).864/2013

(From the judgement and order dated 04/10/2012 in CRLP No.4627/2010, of The HIGH COURT OF A.P AT HYDERABAD)

AHMED BIN SALAM & ORS. Petitioner(s)

VERSUS

STATE OF A.P. Respondent(s)

(With appln(s) for stay,permission to file additional documents and office report)

Date: 09/09/2013 This Petition was called on for hearing today.

CORAM :

HON'BLE DR. JUSTICE B.S. CHAUHAN

HON'BLE MR. JUSTICE S.A. BOBDE

For Petitioner(s) Mr. K. Rajendra Chowdhary, Sr. Adv.
Mr. Randhir Kapoor, Adv.
Mr. Uday Kumar Sagar, Adv.
Ms. Bina Madhavan, Adv., Mr. M. Sikabdar Siddiqui, Adv.
for M/S. Lawyer'S Knit & Co, Advs.

For Respondent(s) Mr. A.T.M. Rangaramanujam, Sr. Adv.
Mr. D. Mahesh Babu, Adv.
Mr. Mayur R. Shah, Adv.
Ms. Suchitra Hrangkhawl, Adv.
Mr. Amjid Maqbool, Adv.
Mr. Amit K. Nain, Adv.
Mr. B. Ramakrishna Rao, Adv.

UPON hearing counsel the Court made the following

O R D E R

The only point urged by the learned counsel for the appellant is that the prosecution could not have proceeded in view of the lack of prior sanction under Section 39 of the Arms Act, 1959.

In the present case, the sanction has admittedly been obtained during the pendency of the prosecution. It is clear that the matter is concluded by the law as settled by judgment of this Court in General Officer Commanding, Rashtriya Rifles vs. CBI & Anr. 2012 (6) SCC 228 wherein it is held that a sanction in a case like this the concerned could had no jurisdiction to take cognizance for want of prior sanction. We are, thus, of the view that the case cannot proceed on the basis of the sanction obtained during pendency. It would thus be appropriate to set aside the instant prosecution from the stage of cognizance. No doubt, it would be open to the respondents to initiate a fresh prosecution after obtaining the necessary sanction in accordance with the law.

With these observations, the special leave petition stands disposed of.

(O.P. Sharma)
Court Master

(M.S. Negi)
Court Master