

SUPREME COURT OF INDIA
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Crl) No(s).873-874/2004

(From the judgement and order dated 06/08/2003 in CRLM No. 16769/2003 and order dated 18/11/2003 in CRLM No. 26173/2003 of the HIGH COURT OF JUDICATURE AT PATNA)

MD. IZHARUL HAQUE Petitioner(s)

VERSUS

STATE OF BIHAR AND ORS. Respondent(s)

(With appln(s) for c/delay in filing SLP and office report)

Date: 05/12/2008 These Petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE S.B. SINHA
HON'BLE MR. JUSTICE CYRIAC JOSEPH

For Petitioner(s) Mr. Imtiaz Ahmed,Adv.
Mrs. Naghma Imtiaz,Adv.
for M/S. Equity Lex Associates,Advs.

For Respondent(s) Mr. K.B.S. Sinha,Sr.Adv.
Mrs. Kawaljit Kochar,Adv.
Ms. Kusum Chaudhary,Adv.

Mr. Anuj Prakaash,Adv.
Mr. Gopal Singh,Adv.

UPON hearing counsel the Court made the following
ORDER

Delay in filing the application for substitution is condoned. Abatement is set aside. Application for substitution is allowed.

Delay in filing SLP is condoned.

This petition involves a question in regard to alleged theft of a car.

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Indisputably, a first information report was lodged by the petitioner against the respondents. The respondents filed an application under Section 482 of the Code of Criminal Procedure. By reason of an order dated 10.2.1998, the High Court quashed the order of the learned Magistrate taking cognizance of the offence against the respondents.

An application for recalling of the said order was filed by the petitioner before the High Court on 7.7.2003. By reason of an order dated 6.8.2003, the High Court refused to recall its order dated 10.2.1998, opining that the complainant-petitioner did not choose to appear before it despite valid service of notice.

The petitioner filed another application on 8.9.2003, for modification of the said order which has been dismissed by the High Court by an order dated 18.11.2003.

The legality and/or validity of the order dated 18.11.2003 and not the order dated 11.2.1998 quashing the order taking cognizance of the offence, is in question before us. As a finding of fact has been arrived by the High Court that there was a valid service upon the petitioner in the criminal Misc. No. 6401/1992, we are of the opinion that no case has been made out for interference with the impugned judgment.

The special leave petitions are dismissed.

(A.S. BISHT)
MASTER

COURT MASTER

(PUSHAP LATA BHARDWAJ) COURT