

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

CRIMINAL APPEAL NO(s). 15 OF 2005

A.S. RAGHUNATHAN & ORS.

Appellant (s)

VERSUS

T. SAMPATHKUMAR

Respondent(s)

(With appln(s) for stay,taking additional document on record and office report)

Date: 07/10/2010 This Appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE HARJIT SINGH BEDI
HON'BLE MR. JUSTICE R.M. LODHA

For Appellant(s)

Mr. K.K. Mani,Adv.
Mr. Abhishek Krishna,Adv.

For Respondent(s)

Mr. Rakesh K. Sharma,Adv.
Ms. Sangita Chauhan,Adv.
Mr. M.M.Manivel,Adv.

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

The appeal is allowed.

[SUMAN WADHWA]
COURT MASTER

[VINOD KULVI]
COURT MASTER

Signed order is placed on the file.
IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 15 OF 2005

A.S. RAGHUNATH & ORS.

.. APPELLANT(S)

vs.

T. SAMPATHKUMAR

.. RESPONDENT(S)

O R D E R

We have heard learned counsel for the parties.

The respondent herein had first filed criminal complaint that is Crime No. 1155/1999 on 2nd November 1999 for offences punishable under Section 420, 406 etc. of the IPC. This matter was referred under Section 160(3) of the

Cr.P.C. by the Magistrate to the police. The police on investigation found that no criminal offence was made out as the dispute between the parties was clearly of a civil nature. This recommendation was accepted by the Judicial Magistrate. The complainant i.e. the respondent before us thereafter filed an application under Section 173(8) of the Cr.P.C. for further investigation in Crime No.1155/1999.

The Division Bench vide its order dated 20th March, 2002 ordered further investigation. Even on further investigation made by the police it was found that the dispute between the parties was of a civil nature. Notice

-2-

was accordingly issued to the complainant, on 22nd July, 2002 to show cause why the recommendations by the police should not be accepted. Instead of pursuing this matter the complainant filed another complaint on 8th August 2002 on the same facts as the one filed on 2nd November 1999, and notice was issued on this complaint on 22nd August, 2002.

The learned counsel for the respondent very fairly submitted that two complaints are on identical facts. Even on a perusal of the complaints we find that to be the correct position.

In the meanwhile, we are told that the complainant has also filed a civil suit seeking rendition of accounts. On these facts a petition under Section 482 was filed by the appellant alleging that the entire process was an abuse of the process of the Court and the two complaints on the same cause could not lie and that in any case the dispute was of a civil nature and the complainant had in fact filed a suit.

In the light of the above facts we are clearly of the opinion that the second complaint on identical facts did not lie. Instead of showing cause to the notice dated 22nd July 2002 issued by the Magistrate as to why the report of the police on further investigation should not

be accepted the complainant chose to file the second
complaint on 8th August 2002. This was clearly an abuse of
the process of the Court. We accordingly allow this
appeal, and set aside the impugned order of the High Court.
Ipso facto the criminal complaint dated 8th August 2002
shall also deemed to be quashed.

.....J.
(HARJIT SINGH BEDI)

.....J.
(R.M. LODHA)

New Delhi,
October 7, 2010.