

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 1484 OF 2008

JASBIR SINGH MANCHANDA

... Appellant

VERSUS

STATE THROUGH CBI & ANR.

... Respondents

WITH

CRIMINAL APPEAL NO. 1521 OF 2009

O R D E R

The two appellants in these two appeals before us are facing trial in FIR hearing RC 10(S)/89 SIU (IX) which was registered on 22.12.1989 and, thereafter, chargesheet was filed. Subsequent thereto, a complaint was also filed by Director General of Foreign Trade (DGFT) alleging violation of Section 120B of the Indian Penal Code (IPC) read with Sections 419, 420, 467 of the IPC and Section 5 of the Import and Export (Control) Act, 1947, due to non-fulfillment of certain export obligations. In the proceedings, order dated 03.07.2000 were passed by the Chief Judicial Magistrate, Chandigarh, dismissing the application

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NIDHI AHUJA
Date: 2016.05.20

of discharge that was preferred by appellant-G.L. Badlani.

15:32:51 IST
Reason:

Thereafter, order dated 04.02.2003 was passed initiating

dated 28.03.2003 was also passed rejecting the application preferred by Mr. Manchanda for exemption from personal appearance. All these three orders were challenged by both the appellants by filing petitions under Section 482 of the Cr.P.C. which have been dealt with by the learned High Court by the impugned judgment. The High Court has dismissed the said petitions filed by both the appellants herein.

After going through these orders, the record of the case and after taking into consideration the submission that have been made at the Bar by learned counsel appearing on either side, we are of the opinion that it is not a case where the proceedings should be quashed. We may note that the main argument advanced by the learned counsel for the appellants is that the alleged incident is of the year 1982 in which proceedings were initiated much later and they are lingering in the trial court without any substantial progress. We find that one of the main reasons for delay was that the appellant Jasbir Singh Manchanda, who is the resident of USA, could not be served for quite some time. Be that so, proceedings under Sections 82 and 83 of the Cr.P.C. have to be initiated against him as pointed out above. The trial court passed three orders (which were

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impugned) in the year 2000 and, the proceedings are held up only because those orders were first under challenge before the High Court and now in this court.

Therefore, we do not find it to be a fit case for quashing of the proceedings on this ground.

At the same

time, we are of the opinion that the proceedings should now be conducted expeditiously by the trial court.

We may place

on record the submission of the counsel for the appellants that as per them the CBI does not have the necessary records on the basis of which allegations are leveled against the

appellants and they have also submitted that DGFT at whose instance, the proceedings are initiated is not interested in presenting these cases.

It is not necessary to go into this aspect inasmuch as if the records are available (Ms. Vibha Dutta Makhija, learned senior counsel appearing for CBI states that the records have already been filed with the Court), CBI would be in a position to produce the same at the time of evidence.

Having regard to the fact that the matter is old, the trial court is directed to complete the trial and dispose of the matter within one year from the first date when the parties appear before the trial court.

It is made clear that the CBI shall not unnecessarily ask for any adjournment and in any case, the indulgence

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would not be given to CBI beyond one year. In case, the trial court finds that CBI is not in a position to produce the evidence and is taking unnecessary adjournment, it would be open to the trial court to close the right of the prosecution to lead evidence and proceed with the matter in accordance with law.

Having regard to the fact that the appellant-Jasbir Singh Manchanda is a resident of USA and is 74 years of age and also suffering from various diseases, we exempt the personal appearance of the appellant. He shall, however, appear in the trial court through counsel or through his authorised representative.

The proceedings under Sections 82 and 83 of Cr.P.C. initiated against him shall not be taken further and shall be treated as dropped.

Likewise if the other appellant-G.L. Badlani, who is the resident of Mumbai, is unable to come on a particular date, for justifiable reason, exemption shall be granted

Mr. Nikhil Jain, Adv.
Mr. Rajiv Mehta, Adv.

For Respondent(s) Mr. P. Parmeswaran, Adv.
Mr. Shashi Bhushan Kumar, Adv.
Ms. Vibha Dutta Makhija, Sr. Adv.
Mr. B. Raghunath, Adv.
Mr. P. K. Dey, Adv.
Mr. M. K. Maroria, Adv.

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

The appeals are disposed of in terms of the signed
order.

In view thereof, no further orders are required to be
passed in the application for impleadment and other pending
applications.

(Nidhi Ahuja)
Court Master

(Tapan Kr. Chakraborty)
Court Master

[Signed order is placed on the file.]