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CrI.A.No. 593 OF 1998

ITEM NO. 110

COURT NO. 2

SECTION II

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. 593/1998

C.B.I. By Its Director C.G.O. Complex, N.D.

Appellant(s)

VERSUS

R. Nagendra Naik & Anr.

Respondent (s)

Date : 20/02/2003 This/These matter/matters was/were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE S. RAJENDRA BABU  
HON'BLE MR. JUSTICE G.P. MATHUR

For Appellant (s) Mr. Altaf Ahmad, ASG

Mr. Amariarputham, Adv.

Mr. P Parmeswaran, Adv.  
Mr.B.V. Balram Das, Adv.

For Respondent (s) Mr.Sanjay R Hegde, Adv.  
Mr. Satya Mitra, Adv .

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

Heard learned Additional Solicitor General/learned counsel.

The appeal is disposed of in terms of the signed order.

CHARANJIT

[ OM PRAKASH ]  
COURT MASTER

[ Signed order is placed on the file ]

IN THE SUPREME COURT OF INDIA  
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 593 OF 1998

Central Bureau of Investigation ..... Appellant  
By its Director CGO Complex, N.D.

Versus

R. Nagendra Baik & Ors. .... Respondents

O R D E R

The appellant before us is not really aggrieved by the ultimate outcome of the order under appeal but has only grievance in respect of certain observations made in the course of the order and in respect of certain directions given by the court incidental thereto. The matter pertains to investigation into the murder of Dr. U. Chittaranjan who was a member of the Karnataka Legislative Assembly. A writ petition was filed for expeditious investigation but was disposed of with certain observations stating that no further directions need to be

issued and no mala fides have been made out and, therefore, the case cannot be kept on the file of the court. Against that order a writ appeal was filed before the High Court. In that writ appeal, the Division Bench of the High Court made the following observations while disposing of the matter :

" We are satisfied that the investigation has unnecessarily been

protracted, with the result, whatever evidence could have been made available has been passively allowed to disappear. Not only the investigation required to be completed within the time specified, but it is also necessary to hold an enquiry with respect to the conduct of the Investigating Officer and the said superintendent of Police regarding the investigation." and gave certain directions of which we are concerned with only directions Nos. 2 and 3 which are set out hereunder :

"2. The Director General shall hold the Departmental enquiry with respect to the conduct of Investigating Officer and the superintendent of Police in so far as it relates to the conduct of the investigation in the present case. Such Departmental enquiry shall be conducted by an Officer not below the rank of the Deputy Director general of C.B.I. During enquiry it shall be positively ascertained as to how much amount has been incurred during the investigation besides the circumstances preventing the completion of the investigation without further delay.

3. The observations with respect to the conduct of the Investigating Officer and the superintendent of Police, C.B.I., Chennai, made in this judgment shall be directed to be made a part of their personal service records for being used by the C.B.I. at the time of their postings and promotions."

Though in the opinion of the High court the investigation may not have been made satisfactorily still the observations adverted to above could not have been made as to the conduct of the officers

particularly when they had not been impleaded before the Court as parties or at any rate they did not have an opportunity to put forth their case. In the course of the order if a direction is issued that an enquiry will have to be held against them or appropriate observations will have to be made as to their conduct in their service record which are to be borne in mind at the time of their promotions and postings will all affect their career adversely. This Court has as many times expressed a view that the High court or the other courts should not make sweeping remarks as to the conduct of the officers investigating in the matter unless those officers had appropriate opportunity to defend themselves. In that view of the matter we expunge the remarks and directions made by the High court to which we have adverted to earlier. The appeal stands disposed of accordingly.

[ S RAJENDERA BABU ]

.....J

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[ G.P.MATHUR ]

New Delhi,  
February 20, 2003