

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. 1248/2000

(From the judgement and order dated 21/02/2000 in CRLA 2340/99
of The HIGH COURT OF BOMBAY AT NAGPUR)

UTTAM Petitioner (s)

VERSUS

OMPRAKASH & ANR. Respondent (s)

(With Appln(s). for stay)
(For Final Disposal)
(With Office Report)

Date : 03/11/2000 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE A.P. MISRA
HON'BLE MR. JUSTICE DORAISWAMY RAJU

For Petitioner (s)

Mr. A.S. Bhasme,Adv.
Mr. Manoj Kumar,Adv.

For Respondent (s)

Mr. H.W. Dhabe,Sr.Adv.
Mr. S.S. Shinde,Adv.
Mr. R.S. Lambat,Adv.

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

L.....L.....I.....T.....T.....T.....T.....T.....T.....J
.SP2

Leave granted. The appeal is allowed. Costs
on the parties.

Until the HighCourt decides the matter the
proceedings before the trial court shall remain stayed.

.SP1

(Ganga Thakur)
P.S.to Registrar

(V.P. Tyagi)
Court Master

Signed order is placed on the file.

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. OF 2000@@
CC

Uttam

Appellant

Versus

Om Prakash

& Respondents

O R D E R

Leave granted.

Heard learned counsel for the parties.

L.....L.....I.....T.....T.....T.....T.....T.....T.....J
.SP2

The short question raised in this appeal is, whether on the facts and circumstances of this case, sanction under Section 197 Cr.P.C is necessary before initiating prosecution against the appellant based on the complaint. After perusing the impugned order, we find the High Court has not recorded any finding in this regard. In fact, it has ordered the trial court to deciding this issue. We find the complaint in this case is of the year 1988, and the point raised seems to be short hence it would be appropriate that the High Court itself decide this issue instead of leaving it to be decided by the trial court. Accordingly, impugned order of the High Court is set aside, and the case is sent back to the High Court for deciding this issue in accordance with law. The trial Court has already decided this issue, hence this question should be decided first by the High Court. Accordingly, we allow this appeal. The High Court should dispose of the matter preferably within a period of six months from date of the receipt of the certified copy of the order. Until the High Court

:2:

decides the matter the proceedings before the trial court shall remain stayed.

& & & & & & & & J.
(A.P. Misra)

New Delhi.
November 3, 2000

& & & & & & & & J.
(Doraiswamy Raju)