

ITEM NO.44

COURT NO.12

SECTION IIA

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition for Special Leave to Appeal (Crl.) No. 5336/2013

(Arising out of impugned final judgment and order dated 14/11/2011 in CRLC No. 6547/2010 passed by the High Court Of M.p At Gwalior)

STATE OF MADHYA PRADESH

Petitioner(s)

VERSUS

MOHANLAL VERMA & ORS.

Respondent(s)

(With appln. (s) for c/delay in filing SLP and c/delay in refiling SLP and exemption from filing O.T. and office report) (FOR FINAL DISPOSAL)

WITH

SLP(Crl) No. 5334/2013

(With Office Report)

Date : 04/03/2016 These petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE A.K. SIKRI

HON'BLE MR. JUSTICE R.K. AGRAWAL

For Petitioner(s) Ms. Bansuri Swaraj, Adv.
Ms. Shreya Bhatnagar, Adv.
Mr. C.D. Singh, Adv.

For Respondent(s) Mr. Akshat Shrivastava, Adv.
Mr. Sarbjit Dutta, Adv.
Mr. Vinod Prasad, Adv.

Mr. Vivek K Tankha, Sr. Adv.
Mr. Rahul Kaushik, Adv.
Mr. Vaibhav Srivastava, Adv.
Mr. Sachin Pujari, Adv.
Mr. Parth Tiwari, Adv.

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

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Delay condoned.

On the complaint filed by one Mr. Rahul Jain under Section 190 of the Code of Criminal Procedure (for short, Cr.P.C.), learned Magistrate passed an order directing the recording of preliminary evidence, thereby taking recourse to take action under Section 200 of the Cr.P.C. However, thereafter he passed orders referring the matter for investigation by the Lokayukta, Guna under Section 156(3) of the Cr.P.C. That order was challenged on the ground that once the Magistrate has preferred to proceed with the complaint by taking recourse to Section 200 of the Cr.P.C., it was not permissible to him to relegate the investigation of the matter under Section 156(3) of the Cr.P.C. Accepting the aforesaid contention, the High Court has set aside the judgment of the trial Court and also quashed further proceedings arising out of the FIR.

The aforesaid view of the High Court is in conformity with the provisions of Section 202 of the Cr.P.C. and it has been so held in series of decisions of this Court. Therefore, we do not find any error in the impugned order passed by the High Court and thus the special leave petition is dismissed.

However, at the same time, we note that after the aforesaid order was passed by the High Court, the learned Magistrate dismissed the compliant itself. That was clearly an erroneous approach on the part of the learned Magistrate as only that part of the order is set aside by the High Court by which the learned Magistrate had ordered investigation under Section 156(3) of the Cr.P.C. Insofar as the course of action taken earlier by the learned Magistrate to proceed with the compliant under section 200 of the Cr.P.C. is concerned, that course of action should have been carried further to its logical end. Order dated 08.02.2013 passed by the learned Magistrate is therefore set aside giving liberty to the complainant to prosecute his compliant.

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In view of the order passed above in SLP(Crl.) No. 5336 of 2013, this special leave petition is also disposed of in the same terms and directions.

[Charanjeet Kaur]
A.R.-cum-P.S.

[Tapan Kr. Chakraborty]
Court Master