

H  
SLP(Crl.)No. 2897 OF 2003  
ITEM No.30

Court No. 4

SECTION IIA  
A/N MATTER

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. 2897/2003

(From the judgement and order dated 10/10/2002 in CRLM 35679-M/02  
of The HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH)

STATE OF PUNJAB THROUGH SECY.HOME

Petitioner (s)

VERSUS

BANT SINGH & ANR.

Respondent (s)

( With Office Report )

Date : 09/10/2003 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE DORAISWAMY RAJU  
HON'BLE MR. JUSTICE ARIJIT PASAYAT

For Petitioner (s)  
Mr.Arun K. Sinha,Adv.  
Mr.Rakesh Singh,Adv.,

Mr. Bimal Roy Jad,Adv.

For Respondent (s)  
Mr.Kuldip Singh,Adv.

UPON hearing counsel the Court made the following

O R D E R

Leave granted.

Order of the High Court is set aside and the matter is remitted to the High Court with a direction that the proceedings be restored to its original file and the matter be disposed of afresh after hearing both parties on merits, in accordance with law. The appeal stands disposed of accordingly.

(Vijay Kumar Sharma)(Vijay Aggarwal)  
AR cum PS to Hon.Judge Court Master

Signed order is placed on the file.

IN THE SUPREME COURT OF INDIA

CRL.APPELLATE JURISDICTION

CRL.APPEAL NO.1230 OF 2003  
(Arising out of S.L.P.(Crl.) No.2897/2003)

STATE OF PUNJAB THROUGH SECRETARY HOME .. Appellant

Versus

BANT SINGH & ANR. .. Respondents

O R D E R

Leave granted.

The above appeal has been filed against the order passed by the learned single Judge of the Punjab and Haryana High Court dated 10.10.2002 whereunder the petition filed under Section 482 Cr.P.C. Seeking to quash the proceedings instituted under Section 182 IPC came to be allowed with a cryptic order as follows:-

"In view of the bar contained in Section 195 Cr.P.C., proceedings under Section 182, IPC are quashed. Petition stands disposed of accordingly."

Heard the learned counsel appearing on either side.

Notice has been ordered keeping in view the cryptic nature of the order passed while substantial relief of quashing the proceedings has been granted without any objective consideration of the claims of the respondents who are petitioners before the High Court. The learned counsel for the respondents tried to justify the order by referring to averments made in the counter affidavit filed in this Court. That is not the way the matter could be dealt with. The affidavits or counter affidavits filed by either of the parties are not to be taken to be an effective supplement or substitute for an otherwise objective consideration required to be made before recording any conclusion affecting substantial rights of parties in a proceedings. Judicious approach and objective consideration is the hallmark of a judicial decision by courts/quasi judicial authorities dealing with rights of parties, all the more so when its orders are open to scrutiny/review by Appellate or Revisional Authorities. Such an essential exercise is found to be absolutely lacking in the order of the High Court under challenge.

Consequently, the order of the High Court is set aside and the matter is remitted to the High Court with a direction that the proceedings be restored to its original file and the matter be disposed of afresh after hearing both parties on merits, in accordance with law. The appeal stands disposed of accordingly.

.....J  
(Doraiswamy Raju)

.....J  
(Arijit Pasayat)

New Delhi,  
October 9, 2003