

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO(S). 889/2007

ARUP BHUYAN

APPELLANT(S)

VERSUS

THE STATE OF ASSAM & ANR.

RESPONDENT(S)

AND

CRIMINAL APPEAL NO(S). 1383/2007

O R D E R

1. This Court, vide order dated 26.08.2014, referred the matters to a Larger Bench had specifically recorded the following observations:-

“The learned counsel appearing for the respondent, namely, Arup Bhuyan, very fairly stated that he has nothing to do with the clarification as long as the judgment of acquittal is not disturbed. Mr. Parasaran conceded that he does not intend to question the acquittal as the Union of India is only concerned with the interpretation placed by this Court to save the constitutional validity of the provisions by adopting the doctrine of reading down in the absence of the Union of India.”

2. On 24.03.2023, the reference has been answered by this Court in Arup Bhuyan v. State of Assam & Anr., 2023 (4)

SCALE 739. It has been held by this Court that when an association is declared unlawful by a notification issued under Section 3 of the Unlawful Activities (Prevention) Act, 1967 (for short, 'the said Act'), which has become effective of sub-Section (3) of that Section, a person who is and continues to be a member of such association is liable to be punished with imprisonment for a term which may extend to two years, and shall also be liable to fine under Section 10(a)(i) of the said Act.

3. In view of the observations made by this Court that answer to the reference would not effect the finding of acquittal, nothing remains for adjudication in the present appeals.

4. The appeals are therefore disposed of as such.

5. Pending application(s), if any, shall stand disposed of.

.....J
(B.R. GAVAI)

.....J
(PRASHANT KUMAR MISHRA)

NEW DELHI;
SEPTEMBER 21, 2023

ITEM NO.105

COURT NO.4

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(S). 889/2007

ARUP BHUYAN

APPELLANT(S)

VERSUS

THE STATE OF ASSAM & ANR.

RESPONDENT(S)

WITH

CrI.A. No. 1383/2007 (II)

(FOR ON IA 18711/2012, FOR ON IA 18712/2012)

SLP(CrI.)...CRLMP No. 16637/2014 (II-C)

(IA No. 16637/2014 - CONDONATION OF DELAY IN FILING

IA No. 16639/2014 - CONDONATION SLP(CrI) No. 5971/2019 (II-B)

(FOR ADMISSION and I.R. and IA No.101726/2019-EXEMPTION FROM FILING
C/C OF THE IMPUGNED JUDGMENT and IA No.101727/2019-EXEMPTION FROM
FILING O.T.)

SLP(CrI) No. 5643/2019 (II-B)

(FOR ADMISSION and I.R. and IA No.96965/2019-EXEMPTION FROM FILING
C/C OF THE IMPUGNED JUDGMENT and IA No.96967/2019-EXEMPTION FROM
FILING O.T.)

SLP(CrI) No. 5964/2019 (II-B)

(FOR ADMISSION and I.R. and IA No.101567/2019-EXEMPTION FROM FILING
C/C OF THE IMPUGNED JUDGMENT and IA No.101571/2019-EXEMPTION FROM
FILING O.T.)

SLP(CrI) No. 6270/2019 (II-B)OF DELAY IN REFILING / CURING THE
DEFECTS)

SLP(CrI) No. 5971/2019 (II-B)

(FOR ADMISSION and I.R. and IA No.101726/2019-EXEMPTION FROM FILING
C/C OF THE IMPUGNED JUDGMENT and IA No.101727/2019-EXEMPTION FROM
FILING O.T.)

SLP(CrI) No. 5643/2019 (II-B)

(FOR ADMISSION and I.R. and IA No.96965/2019-EXEMPTION FROM FILING
C/C OF THE IMPUGNED JUDGMENT and IA No.96967/2019-EXEMPTION FROM
FILING O.T.)

SLP(CrI) No. 5964/2019 (II-B)

(FOR ADMISSION and I.R. and IA No.101567/2019-EXEMPTION FROM FILING
C/C OF THE IMPUGNED JUDGMENT and IA No.101571/2019-EXEMPTION FROM

FILING O.T.)

**SLP(Crl) No. 6270/2019 (II-B)
(FOR ADMISSION and I.R. and IA No.105564/2019-EXEMPTION FROM FILING
C/C OF THE IMPUGNED JUDGMENT and IA No.105565/2019-EXEMPTION FROM
FILING O.T.)**

Date : 21-09-2023 These matters were called on for hearing today.

CORAM :

**HON'BLE MR. JUSTICE B.R. GAVAI
HON'BLE MR. JUSTICE PAMIDIGHANTAM SRI NARASIMHA (NOT PARTICIPATED)
HON'BLE MR. JUSTICE PRASHANT KUMAR MISHRA**

For Appellant(s) **Mr. Abhijit Sengupta, AOR
Mr. Arvind Kumar Sharma, AOR**

**Ms. Ranjana Narayan, Adv.
Mr. Ashok Panigrahi, Adv.
Mr. Kanu Agrawal, Adv.
Mr. T.s.sabarish, Adv.
Dr. Arun Kumar Yadav, Adv.
Mr. Shreekant Neelappa Terdal, AOR**

For Respondent(s) **Mr. Shuvodeep Roy, AOR
Mr. Deepayan Dutta, Adv.**

**Mr. Haris Beeran, Adv.
Mr. Ahar Assees, Adv.
Mr. Radha Shyam Jena, AOR**

**Mr. P. A. Noor Muhamed, AOR
Mr. Muhamad Shareef, Adv.
Ms. Giffara, Adv.
A. Shukoor, Adv.
A. Nowfal, Adv.**

**Ms. Ranjana Narayan, Adv.
Mr. Ashok Panigrahi, Adv.
Mr. Kanu Agarwal, Adv.
Mr. Rajan Kumar Chourasia, Adv.
Mr. Sandeep Kumar Mahapatra, Adv.
Mr. Navanjay Mahapatra, Adv.
Mr. Arvind Kumar Sharma, AOR**

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

CRIMINAL APPEAL NO(S). 889/2007 &
CRIMINAL APPEAL NO(S). 1383/2007

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

SLP(CRL) NO..... @ CRL.M.P. NO.16637/2014

1. Delay condoned.
2. The present matter was also tagged with Crl. A. No.889 of 2007 (Arup Bhuyan v. State of Assam). While tagging the matter, on 29.08.2014, a statement was made by the learned Additional Solicitor General appearing for the Union of India that the Union of India was only interested in the question being decided and did not intend to interfere with the acquittal of the accused.
3. On 24.03.2023, the reference was answered by this Court in Arup Bhuyan v. State of Assam & Anr., 2023 (4) SCALE 739. It has been held by this Court that when an association is declared unlawful by a notification issued under Section 3 of the Unlawful Activities (Prevention) Act, 1967 (for short, 'the said Act'), which has become effective of sub-Section (3) of that Section, a person who is and continues to be a member of such association is liable to be punished with imprisonment for a term which may extend to two years, and shall also be liable to fine under Section 10(a)(i) of the said Act.
4. Further, in view of the statement of the learned Additional Solicitor General of India that answer to the reference would not affect the findings of acquittal recorded by this Court in its order dated 29.08.2024, nothing survives for adjudication in this matter.
5. The special leave petition is, accordingly, disposed of.
6. Pending application(s), if any, shall stand disposed of.

1. Heard learned counsel for the petitioners/National Investigation Agency.
2. Learned counsel submits that the acquittal recorded by the Division Bench of the High Court was on the ground that the accused were only members of the association and no overt act was attributed to them.
3. The instant matters were tagged with CrI. A. No.889 of 2007 (Arup Bhuyan v. State of Assam).
4. On 24.03.2023, the reference was answered by this Court in Arup Bhuyan v. State of Assam & Anr., 2023 (4) SCALE 739. It has been held by this Court that when an association is declared unlawful by notification issued under Section 3 of the Unlawful Activities (Prevention) Act, 1967 (for short, 'the said Act'), which has become effective of sub-Section (3) of that Section, a person who is and continues to be a member of such association is liable to be punished with imprisonment for a term which may extend to two years, and shall also be liable to fine under Section 10(a)(i) of the said Act.
5. We have perused the impugned judgment and order passed by the Division Bench of the High Court.
6. We find that the acquittal recorded by the High Court is not only based on the question which was referred to a Larger Bench which held that the answer to the reference would not affect the findings of acquittal; the High Court, by an elaborate judgment, has considered the merits of the matters and found the Order of conviction, as recorded, to not be tenable.
7. We do not find that this is a fit case to interfere with the finding of acquittal. It is a settled principle of law that unless the findings of acquittal are impossible or perverse, the Court should not interfere with the same. No perversity is noticed in the approach adopted by the High

Court.

- 8. The special leave petitions are, accordingly, dismissed.**
- 9. Pending application(s), if any, shall stand disposed of.**

**(NARENDRA PRASAD)
ASTT. REGISTRAR-cum-PS**

**(ANJU KAPOOR)
COURT MASTER (NSH)**

(Signed order, as above, is placed on the file)