

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

CRL.MP.NO.18713/2012 in CRIMINAL APPEAL NO. 889 OF 2007

ARUP BHUYAN

Appellant (s)

VERSUS

STATE OF ASSAM

Respondent(s)

(For clarification/direction and office report)

CRL.MP.NO.18711-18712/2012 WITH APPEAL(CRL) NO. 1383 of 2007

(For impleadment and clarification and With office report)

Date: 02/05/2014 These Appeals were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE DIPAK MISRA

HON'BLE MR. JUSTICE V. GOPALA GOWDA

For Appellant(s)

Mr. Aseem Mehrotra, Adv.

Mr. Abhijat P. Medh, Adv.

Mr. A.H. Laskar, Adv.

Mr. Sachin Das, Adv.

Mr. Abhijit Sen Gupta, Adv.

For Respondent(s)

Mr. Jaideep Gupta, Sr. Adv.

Mr. Avijit Roy, Adv.

Mr. Navnit Kumar, Adv.

Ms. Kankana A., Adv. for

M/S Corporate Law Group

Mr. Mohan Parasaran, SG

Mr. Rakesh Khanna, ASG

Ms. Seema Rao, Adv.

Mr. D.L. Chidanand, Adv.

Ms. Ranjana Narayan, Adv.

Mr. B.K. Prasad, Adv.

Mr. Shreekant N. Terdal, Adv.

UPON hearing counsel the Court made the following

O R D E R

CRL.MP.No.18713/2012 in Crl.A.No.889/07:

This is an application for clarification of the judgment passed in Criminal Appeal No.889 of 2007 on

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03.02.2011.

It is submitted by Mr. Mohan Parasaran

learned Solicitor General appearing for Union of India

that the Division Bench has opined with regard to the

constitutional validity of Section 3(5) of the

Terrorist and Disruptive Activities (Prevention) Act,

1987 by reading down the provisions. He has referred to

the paragraph which reads as under:

"In our opinion, Section 3(5) cannot be read literally otherwise it will violate Article 19 and 21 of the Constitution. It has to be read in the light of our observations made above. Hence, mere membership of a banned organisation will not make a person a criminal unless he resorts to violence or incites people to violence or creates public disorder by violence or incitement to violence."

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.

Ordinarily we would have proceeded to deal with the matter but Mr. Jaideep Gupta learned senior counsel

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appearing for the State of Assam submitted that he has filed an application for review of the judgment on the ground that the interpretation of Section 3(5) of the Terrorist and Disruptive Activities (Prevention) Act, 1987 has adversely affected the interpretation of Section-10 of the Unlawful Activities (Prevention) Act, 1967. In view of the aforesaid, it would be appropriate if this application is listed along with the application for review.

List CRL.MP.No. 18711-18712 of 2012 in Crl.A.No.1383/07 along with CRL.MP.No.18713 of 2012 in Crl.Appeal No.889 of 2007.

(Usha Bhardwaj)
A.R.-cum-P.S.

[Sneh Lata Sharma]
Court Master