

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(C)..CC...5336/2003

(From the judgement and order dated 17/12/2002 in LPA 1247/02
of The HIGH COURT OF PATNA)

STATE OF BIHAR & ORS.

Petitioner (s)

VERSUS

ISRAR KHAN

Respondent (s)

With I.A.1(C/delay in filing SLP and office report)

Date :10/07/2003 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE B.N. AGRAWAL
HON'BLE MR. JUSTICE D.M. DHARMADHIKARI

For Petitioner (s)Mrs. Sunita R. Singh, Adv. with
Mr. B.B. Singh,Adv.

For Respondent (s)

UPON hearing counsel the Court made the following

O R D E R

Heard learned counsel appearing for the State of Bihar.

In the facts of this case, we are not inclined to interfere with the impugned order passed by learned Single Judge which has been upheld by the Division Bench in Letters Patent Appeal.

Learned counsel submitted that the Division Bench while upholding the order of learned Single Judge observed

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that confiscation proceeding is not maintainable as no criminal prosecution has been launched. In our view these observations are in the teeth of a judgment of this Court in State of Bihar & Ors. Vs. Madhusudan Kumar - Criminal Appeal No.430 of 2003 decided on March 24, 2003 in which it has been laid down thus:

" In our view, on this ground alone, the impugned order is fit to be set aside as neither factually it is correct nor in law launching of criminal prosecution is a condition precedent for initiating a confiscation proceeding...."

In view of this, while upholding the impugned order, we are of the view that the statement of law in the order of Division Bench is not correct. The Special leave petition is disposed of accordingly.

(Meenu Sethi)
Court Master

(Om Prakash)
Court Master