

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.891 OF 2000

UNION OF INDIA & ORS.

...APPELLANT(

S)

Versus

GURINDER SINGH CHEEMA & ORS.

...RESPONDENT

(S)

J U D G M E N T

B.P.SINGH,J.

We have heard counsel for the parties.

The respondent was tried by the General Court Martial and sentenced to undergo rigorous imprisonment for four years. He also cashiered from service and

his arrears of pay and allowances etc. were forfeited. The Respondent No.1 herein

preferred a Writ Petition before the High Court of Jammu & Kashmir which

admitted the Writ Petition for hearing without granting any interim relief. The

prayer for bail in terms, was rejected. The Respondent No.1 went in Letters Patent

Appeal before a Division Bench of the High Court challenging the order of the

learned Single Judge refusing interim relief including bail. The High Court allowed the appeal and directed that the Respondent No.1 be released on bail subject to the

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conditions incorporated in the impugned order of the Division Bench of the High

Court dated 7th December, 1999.

We are informed that the Writ Petition has since been dismissed. This is

not disputed by counsel for Respondent No.1. He, however, submits that the Writ

Petition has been dismissed for default. Counsel for the Union of India points out

that one of the conditions imposed by the Division Bench of the High Court while

granting bail was that in the event of Writ Petition being dismissed, the Respondent

No.1 shall immediately surrender to the Army Authorities/Jail Authorities concerned

to serve out the balance of the sentence. Counsel for the Union of India informs us

that Respondent No.1 has not so far surrendered.

However, since the Writ Petition stands dismissed we are not called upon to

express any opinion on the question of law raised in the appeal before us. In the

event of the order of dismissal being revoked and the matter being heard on merit by

the High Court, it will be open to the Union of India to urge all submissions before it

including the submission that the Writ Petition ought to have been registered as a

Criminal Writ Petition and not as a Civil Writ Petition.

Some other submissions were also sought to be urged before us, such as

that the Army Act itself provides internal remedies and there was no justification for

the High Court to entertain the Writ Petition. It was also submitted that under the

Army Act there are also provisions which give the concerned authority power to

suspend the sentence passed by the General Court Martial. Despite all these the

Respondent No.1 approached the High Court which admitted the Writ Petition for hearing.

In the facts and circumstances of the case, without expressing any opinion

on the merit of the submissions raised in the appeal, we dispose of the appeal as

having become infructuous in view of the dismissal of the Writ Petition.

It has been brought to our notice that Clause (iv) of the order of the

Division Bench granting bail in terms provides that in case the Writ Petition is

dismissed, Respondent No.1 must immediately surrender to his sentence.

This is also a matter which can be brought to the notice of the High Court, if occasion arises.

.....J.

(B.P.SINGH)

.....J.

(TARUN CHATTERJEE)

New Delhi,

October 11, 2006

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ITEM NO.104

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). 891 OF 2000

UNION OF INDIA & ORS.

Appellant (s)

VERSUS

GURINDER SINGH CHEEMA & ORS.

Respondent(s)

(With appln(s) for stay)

Date: 11/10/2006 This Appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE B.P. SINGH

HON'BLE MR. JUSTICE TARUN CHATTERJEE

For Appellant(s)

Mr. Vikas Singh, Adv.

Ms. Anita Verma, Adv.

Mrs Anil Katiyar, Adv.

For Respondent(s)

Mr. K.K.Mohan, Adv.

Mr. Ashish Mohan, Adv.

Ms. Geetanjali Mohan, Adv.

UPON hearing counsel the Court made the following

O R D E R

The appeal is disposed of as having become infructuous in terms of the signed

judgment.

(Sukhbir Paul Kaur)

(Vijay Dhawan)

Court Master

Court Master

(Signed Judgment is placed on the file)