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SLP(Crl.)No. 2310 OF 2000

ITEM No.22

Court No. 4

SECTION II
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. 2310/2000

(From the judgement and order dated 21/02/2000 in CRMWP 4673/98
of The HIGH COURT OF JUDICATURE AT ALLAHABAD)

SHYAM SUNDER GOYAL

Petitioner (s)

VERSUS

STATE OF U.P. & ORS.

Respondent (s)

Date : 27/04/2001 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE G.B. PATTANAIAK
HON'BLE MR. JUSTICE U.C. BANERJEE

For Petitioner (s) Mr. R.K. Jain,Sr.Adv.
Ms. Anita Pandey,Adv.
Ms. Rita Upadhyaya,Adv.
Mr. Gopal Prasad,Adv.

For Respondent (s) Mr. D.D. Thakur,Sr.Adv.
M/s.G.Banerjee,R.N.Karanjawala,Mrs.Nandini
Gore,Ms.Julie Buragohain and
Mrs Manik Karanjawala,Advs.

State of Uttranchal Mr. Manoj Swarup,Adv.
Mr. Dinesh Dwivedi,Sr.Adv.
Mr. Ajay K. Agrawal.,Adv.
Mr. V.Mishra,Adv.

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

.....L.....I.....T.....T.....T.....T.....J.
.SP2

Leave granted.
The appeal allowed.

.SP1

(Y.P.Dhamija) (Suneet Bala Sharma)@@
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COURT MASTER COURT MASTER

Signed order is placed on the file.

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IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.562/2001@@
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(arising out of SLP(Crl) No.2310/2000)

Shyam Sunder GoyalAppellant

Vs.

State of U.P. & Ors.Respondents

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.SP2

Leave granted.

Informant is the appellant against the impugned order of the Division Bench of Allahabad High Court in Criminal Misc. W.P. No.4673/1998 whereunder the High Court has quashed the FIR. On the basis of the FIR dated 18.12.1997 Criminal Case No. 20/1997 was instituted under sections 448, 427 and 506 of IPC. The accused immediately approached the High Court by filing a Writ Petition, and the High Court by the impugned judgment being of the opinion that the allegation made in the FIR makes out a case of civil nature being a breach of contract involved therein, set aside and quashed the FIR. Be it be stated that in the meantime, the investigation is over and charge-sheet has already been filed.

Mr. R.K.Jain, the learned senior counsel appearing for the appellant contends that though the High Court has formulated the question regarding parameter when a FIR could be quashed, but in coming to its conclusion committed serious error by quashing the FIR, since on the face of it, the allegation made in the FIR makes out an offence for which the investigation has already been gone into. Mr. D.D. Thakur, the learned senior counsel appearing for the accused, on the

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other hand, contended that in the facts and circumstances, the High Court was fully justified in exercising its extra ordinary jurisdiction in quashing the FIR inasuch as all the allegations made relate to contract, and no illegality can be said to have been committed by the officer taking possession of the premises in question.

Having heard the learned counsel for the parties, and after going through the FIR, we have no hesitation to come to the conclusion that the High Court exceeded its jurisdiction in quashing the FIR in the facts and circumstances of the present case, since, in our opinion, the allegation in the FIR did constitute an offence. Our conclusion is reaffirmed by the fact that even after investigation, charge sheet has been filed. The impugned order quashing the FIR, therefore, cannot be sustained, and we accordingly set aside the same.

Mr. Thakur in course of his arguments addressed several other contentions with regard to the legality of the criminal proceedings, but we are not inclined to entertain the same, and it will be open for the accused to raise those contentions before the appropriate forum at an appropriate stage.

The appeal stands allowed.

.....J
(G.B.PATTANAİK)

New Delhi,
April 27, 2001

.....J.
(U.C. BANERJEE)