

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.908 OF 2002

JAGDISH CHANDER & ORS.

... APPELLANTS

VERSUS

STATE OF N.C.T. OF DELHI

... RESPONDENT

With

Criminal Appeal No.907/2002

O R D E R

Criminal Appeal No.907/2002 is filed by the State of NCT of Delhi and

Criminal Appeal No.908/2002 is filed by the private party-Jagdish Chander & others.

Since both the appeals relate to an identical issue they are being disposed of by this

common order.

The facts briefly stated are these :

On 3.5.1978 two FIRs were filed namely FIR No.471/78 and FIR No.472/78. FIR 471/78 was lodged for the offence under Sections

147/148/149/452/324/308/427/323 IPC, FIR 472/78 was lodged under Section

147/148/149/452 and 323 IPC and investigation was carried on by one Vigilance

Inspector namely Bihari Lal Sharma and submitted Challan by him under Section

173 Cr.P.C. The learned Additional Session Judge was of the view that the said Shri

Bihari Lal Sharma was not competent to file Challan under Section 173 Cr.P.C. and,

therefore, declined to take cognizance, in respect of the offence in FIR 472/78 whereas in respect of the offence in FIR 471/78 the learned Additional Sessions had held that the Officer namely Bihari Lal Sharma, Inspector Vigilance was competent to file Challan and cognizance had been taken. Both the orders were challenged before the learned Single Judge. The learned Single Judge has confirmed the order passed by the learned Additional Sessions Judge by its order dated 12.3.2001 in respect of the offences in FIR 471/1978. However, the learned Single Judge by its order dated 20.9.2000 had held that the said Bihari Lal Sharma, Inspector Vigilance has no competence to file the report under Section 173 Cr.P.C. and affirmed the view taken by the learned Additional Sessions Judge. This is in respect of the offence in FIR 472/1978.

It is curious to notice that both the FIRs were registered under identical sections of law as quoted above. Both the FIRs, namely, FIR 471/1978 and FIR 472/1978 have been investigated by the same Officer, namely, Bihari Lal Sharma, Inspector Vigilance and by two separate orders by the learned Additional Sessions Judge and the learned Single Judge of the High Court passed different orders on the identical facts. This being the position, we set aside both the orders of the Additional Sessions Judge as well as of the Learned Single Judge of the High Court passed in respect of the offences in FIR 472/1978 are concerned.

This has taken us to consider as to what is the stage of the proceedings.

This Court on 20.07.2001 suspended the criminal proceedings. The offence said to

have been taken is of 1978. It is now well settled principle of law that quick justice is a

sine qua non of Article 21 of the Constitution. Considering the nature of the offence

and the matter is pending since 1978 asking the accused to go back to the trial court

and face the trial at this stage may not be in the interest of justice. Learned counsel

for the State also submits that at this belated stage it may not be in the interest of

justice to continue with the trial as it may be difficult to get the evidence.

Considering these facts we are of the view that the further trial may not be in the

interest of justice. The trial pending before the trial judge shall now terminate from

the stage the proceedings are pending. These appeals are disposed of in the above

terms.

.....J.

(H.K. SEMA)

.....J

(DR. AR. LAKSHMANAN)

NEW DELHI,

JANUARY 10, 2006.

ITEM NO.109

COURT NO.8

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). 908 OF 2002

JAGDISH CHANDER & ORS.

Appellant (s)

VERSUS

STATE (N.C.T. OF DELHI)

Respondent(s)

WITH APPEAL(CRL) NO. 907 of 2002

Date: 10/01/2006 This Appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE H.K. SEMA

HON'BLE DR. JUSTICE AR. LAKSHMANAN

For Appellant(s)

Mr. Gopal Singh, Adv.

For NCT of Delhi

Mr. Vikas Singh, ASG.

Mr. S. Wasim A. Qadri, Adv.

Mrs. Anil Katiyar, Adv.

For Respondent(s)

Mr. A.L. Trehan

UPON hearing counsel the Court made the following

O R D E R

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

(PAWAN KUMAR)

(ANAND SINGH)

COURT MASTER

COURT MASTER

(signed order is placed on the file)