

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION
CrI.M.P. No(s).14484-14485 of 2016
IN
CRIMINAL APPEAL NO(S). 1245-1246 OF 2011

ATUL MANHARLAL CHOKSHI

Appellant(s)

VERSUS

CUSTODIAN & ORS.

Respondent(s)

O R D E R

Applications (CrI.M.Ps.No.14484-14485 of 2016) for early hearing are allowed and disposed of.

Appeals taken on Board.

These appeals arise out of orders dated 23rd December, 2010 and 13th January, 2011 respectively whereby an application for certification filed by the appellant before the Special Court (Trial of Offences Relating to Transaction in Securities Act, 1992) has been dismissed on the ground that the same was filed after the cut-off date.

When these appeals initially came up for hearing on 13th May, 2011, we had issued notice to the respondents limited to the question whether the matter could be remanded to the Special Court for passing orders on merit. We have accordingly heard learned counsel for the parties on that limited question.

Mr. Sunil Fernandes, learned counsel for the appellant submits, and in our view rightly so, that the matter could be remitted back to the Special Court to re-examine and pass order in the matter in the light of the judgment pronounced by this

Court in Varghese K. Joseph v. Custodian and Ors. - (2011) 3 SCC 394. That was also a case where the Special Court had rejected an application for certification, filed by the appellant, on the ground that the application for certification had been filed after the cut-off date. Setting aside the order passed by the Special Court, this Court had remitted the matter back to the Special Court for passing an order afresh in the light of the observations made therein. We see no reason to take a different view especially when the legal position on the subject has been fully explained by this Court in the judgment, above-mentioned.

We accordingly allow these appeals, set aside the orders passed by the Special Court and remit the matter back to it for a fresh examination and disposal of the application for certification moved by the appellant, keeping in view the observations made in Varghese K. Joseph (supra). Parties are directed to appear before the Special Court on Friday, the 7th October, 2016.

.....CJI.
(T.S. THAKUR)

.....J.
(A.M. KHANWILKAR)

.....J.
(DR. D.Y. CHANDRACHUD)

NEW DELHI
DATED 27th SEPTEMBER, 2016

ITEM NO.25

COURT NO.1

SECTION IIA

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Crl.M.Ps.No.14484-14485 of 2016

in

Criminal Appeal No(s). 1245-1246/2011

ATUL MANHARLAL CHOKSHI

Appellant(s)

VERSUS

CUSTODIAN & ORS.

Respondent(s)

(Appln(s). for early hearing and office report)

Date : 27/09/2016 These matters were called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE A.M. KHANWILKAR
HON'BLE DR. JUSTICE D.Y. CHANDRACHUD

For Appellant(s) Mr. Sunil Fernandes, Adv.
 Ms. Mansi Brar Fernandes, Adv.
 Mr. Chandra Shekar, Adv.
 Mr. Puneeth K.G., Adv.

For Respondent(s) Mr. Arvind Kumar Tewari, Adv.

UPON hearing the counsel the Court made the following
O R D E R
Applications (Crl.M.Ps.No.14484-14485 of 2016) for early
hearing are allowed and disposed of.

Appeals taken on Board.

In terms of the signed order, these appeals are allowed and the matter remitted back to the Special Court for re-examination and disposal afresh, in the light of the judgment in Varghese K. Joseph v. Custodian and Ors. - (2011) 3 SCC 394. Parties are directed to appear before the Special Court on Friday, the 7th October, 2016.

(MAHABIR SINGH)
COURT MASTER

(VEENA KHERA)
COURT MASTER

(Signed order is placed on the file)