

\202"

SLP(Crl.)No. 3953-3954 OF 2000

ITEM No.1

Court No. 4

SECTION IIA

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

Crl.M.P.No.9428-9429/2003 in

Petition(s) for Special Leave to Appeal (Crl.) No. 3953-3954/2000

(From the judgment and order dated 24/01/2000 in CRLC 5/1984 & order
dt. 03/10/1997 in CRLMP.5625/85 of the High Court of Punjab & Haryana
at Chandigarh)

U.O.I.& ORS

Petitioner (s)

VERSUS

JASBIR SINGH MANCHANDA & ORS

Respondent (s)

(Appln(s). for appeal against the Order of the Learned Registrar)
(With Office Report)

Date : 08/01/2004 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE Y.K. SABHARWAL

HON'BLE DR. JUSTICE AR. LAKSHMANAN

For Petitioner (s) Mr. A. Mariarputham, Adv.
Mr. P. Parmeswaran, Adv.

For Respondent (s) Mr. Ranjit Kumar, Sr.Adv.
Mr. Rajiv Garg, Adv.
Mr. RK. Gupta, Adv.
Mr. K.K. Gupta, Adv.

UPON hearing counsel the Court made the following

O R D E R

We have perused the Order dated 3rd October, 1997 passed by the High court in Criminal Miscellaneous Petition No.5625-M of 1985. The said Order permitted the present applicant - Jasbir Singh Manchanda to take all pleas which had been taken in the said petition before the Magistrate in order to convince him that the complaint was nothing but an abuse of the process of law or that it could not proceed against him. It seems that after the Order dated 3rd October, 1997 the parties urged their view points before the Magistrate. The Special Judicial Magistrate, Ambala, by Order dated 24th January, 2000 dismissed the complaint and discharged the accused. Against the Order dated 24th January, 2000, Union of India preferred a Special Leave Petition before this Court which was disposed of in terms of the Order passed on 3rd November, 2000 without issuing notice to the respondents, namely, Jasbir Singh Manchanda and others. In the said Order this Court noticed that the petitioner i.e. Union of India and Others should have moved the High Court against the Order dated 24th January, 2000 passed by the Special Judicial Magistrate, Ambala. It has been observed that if the Union of India moves the High Court, the High Court would decide that matter untrammelled by any observation made in the Order dated 3rd October, 1997 referred to above. Now the Criminal Revision Petition filed by the Union of India against the Order dated 24th January, 2000 passed by the Magistrate is pending in the High Court.

The controversy in these applications is whether it would be open to the applicant to contend before the High Court in opposing the Criminal Revision Petition of the Union of India that the complaint is an abuse of the process of law. The apprehension of the applicant is that in view of the Order dated 3rd November, 2000, the applicant may not be permitted to urge that the

complaint is an abuse of process of law despite having been permitted to urge it in terms of the Order dated 3rd October, 1997. We do not think that the Order dated 3rd November, 2000 prevents the applicant/accused to contend that the complaint was an abuse of the process of law.

The intention of the order clearly is that if such a contention is raised, it would be decided on merits in accordance with law. Thus, it would be open to the applicant/accused to support the Order of the Magistrate and contend before the High Court that the complaint is nothing but an abuse of the process of law. The contention, of course, would be decided on merits in accordance with law and it would be open to Union of India to refute on merits the contention so urged.

In view of above, we set aside the Order of the Registrar dated 11th August, 2003 and direct the applications to be registered and the same shall stand disposed of in terms of the order made above.

(S. Thapar)

PS to Registrar

(V.P. Tyagi)

Court Master