

IN THE SUPREME COURT OF INDIA  
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NOS. OF 2023  
(ARISING OUT OF SLP (CRIMINAL) NOS. 4596-4598 OF 2017)

THE STATE OF MADHYA PRADESH

APPELLANT

VERSUS

SHIV SINGH MEHTA & ANR. ETC.

RESPONDENTS

O R D E R

Delay condoned. Leave granted.

2. Heard Mr. Sunny Choudhary, the learned counsel appearing for the appellant-State. Also heard Mr. Navin Prakash, the learned counsel appearing for respondent Nos. 1 and 2 in SLP (Criminal) Nos. 4596 of 2017 and 4597 of 2017.

3. The challenge in these appeals is to an order dated 01.03.2016 in M.Cr.C. Nos. 1916 of 2014, 1917 of 2014 and 5192 of 2014 passed by the Indore Bench of the High Court of Madhya Pradesh whereby the petitions filed by the respondents under Section 482 of the Code of Criminal Procedure, 1973 ("Cr.P.C.") were allowed and the proceedings in Criminal Case Nos. 1015 of 2011, 858 of 2011 and 127 of 2014 were quashed.

4. The learned counsel for the appellant would submit that a cryptic order was passed by the High Court disregarding the provisions of Section 21 of the Factories Act, 1948 (for short, the "Act"). Adverting next to the provisions of Section 9 of the Act,

the learned counsel submits that the Factory Inspector need not be accompanied with an expert and it is a discretion to be exercised by the Inspector himself on a case to case basis.

5. On the other hand, the learned counsel appearing for the respondents would refer to the decision in *H.K. Kala & Anr. v. State of M.P.*, 2008(3) M.P.L.J. 526, to submit that the impugned decision of the High Court is squarely covered by the court's earlier decision in *H.K. Kala* (supra) and, therefore, this Court should make no interference with the impugned judgment.

6. We have considered the rival submissions and also perused the relevant provisions of the Act as also the decision in *H.K. Kala* (supra).

7. When the High Court exercised powers under Section 482 of the Cr.P.C. to quash the proceedings, the Court erroneously found that specific violations by the occupier of the factory were not noticed by the Factory Inspector. Such noting in the impugned judgment, we find, are inconsistent with the categorical report given by the Factory Inspector following the inspections made on 28.12.2010 and 04.01.2011. The Inspector recorded the following violations in pursuance to the inspection of the factory of the respondents:

A. "REPORT SUBMITTED PURSUANT TO INSPECTIONS DATED 28.12.2010 AND 04.01.2011"

3. The work of refinery, where Shri Shyamlal Yadav was employed, falls under the category of dangerous process as per Schedule 11 mentioned under Rule 107

of M.P. Factory Rules, 1962. But his half yearly health check was not got done by the management. His fitness certificate on form 32 issued by the Doctor was also not submitted. This is violation of point no. 4 of Schedule 11 of Rule 107 of the M.P. Factory Rules, 1962.

On account of taking irregular and excess work beyond his physical capacity in arbitrary manner, his health got deteriorated due to strain and stress which became the cause of his death. On account of imposing burden of work on Shri Yadav by the factory Manager, his health got deteriorated. The accident which took place with Shri Yadav is during employment and on account of employment.

8. Likewise, following the inspections carried out on 17.01.2011 of the factory, another report was given by the Factory Inspector, which reads as under:

**B. "REPORT SUBMITTED PURSUANT TO INSPECTION DATED 17.01.2011**

Following violations were found in the inquiry that it is the responsibility of every factory owner (occupier)/manager that all machines in which chain pulley is operational must be covered with safety cover (under Section 21 of the Factory Act 1948), but it was not found in the aforesaid case. This is a serious violation of Section 21 of the Factory Act 1948."

9. Having regard to the above, we are of the considered opinion that the High Court fell into an error in observing that specific violation by the occupier of the factory were not noticed in the reports of the Factory Inspector. The present one cannot be taken as a case with vague allegations against the respondents. As a consequence, the impugned order is found to be unsustainable and

the same is set aside and quashed.

10. The matters are remitted back to the High Court for reconsideration on merit having regard to the parameters laid down in the Act.

11. The appeals stand allowed with the above order.

12. Pending application(s), if any, shall stand disposed of.

.....J.  
(HRISHIKESH ROY)

.....J.  
(MANOJ MISRA)

NEW DELHI;  
MARCH 13, 2023

ITEM NO.38

COURT NO.16

SECTION II-A

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

Petition(s) for Special Leave to Appeal (Crl.) Nos. 4596-4598/2017

(Arising out of impugned judgment and order dated 01-03-2016 in MCRC No. 1916/2014, MCRC No. 1917/2014 and MCRC No. 5192/2014 passed by the High Court of M.P. at Indore)

THE STATE OF MADHYA PRADESH

APPELLANT

VERSUS

SHIV SINGH MEHTA & ANR. ETC.

RESPONDENTS

(IA No. 8032/2017 - CONDONATION OF DELAY IN FILING  
IA No. 46508/2017 - EXEMPTION FROM FILING OFFICIAL TRANSLATION)

Date : 13-03-2023 These matters were called on for hearing today.

CORAM : HON'BLE MR. JUSTICE HRISHIKESH ROY  
HON'BLE MR. JUSTICE MANOJ MISRA

For Petitioner(s) Mr. Sunny Choudhary, AOR  
Ms. Samridhi S. Jain, Adv.

For Respondent(s) Mr. Navin Prakash, AOR

UPON hearing the counsel the Court made the following

O R D E R

Delay condoned.

Leave granted.

The appeals stand allowed in terms of the signed order.

Pending application(s), if any, shall stand disposed of.

(NITIN TALREJA)  
COURT MASTER (SH)

(KAMLESH RAWAT)  
ASSISTANT REGISTRAR

(Signed order is placed on the file)