

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 380 OF 2015
(Arising out of SLP (Crl.) No. 3495 of 2013)

PUSHPENDRA & ORS.

Petitioner(s)

VERSUS

STATE OF U.P. & ANR.

Respondent(s)

O R D E R

Leave granted.

We have heard learned counsel for the parties. On a perusal of the Impugned Order, it is palpably evident that the Revisionists, who are the Appellants before us, had neglected to be present before the Court on several occasions and therefore the Court did not have the advantage of dealing with the submissions on their behalf, which are now sought to be canvassed before us. Learned Counsel for the Parties however, are in consensus on the question that if the Magistrate was of the opinion that in consonance with Section 190 (1)(a) of the Code of Criminal Procedure, 1973 (in short 'the Cr.P.C.') a prima facie case had been made out which indicated the commission of an offence, he would have had to proceed under Chapter XV of the Cr.P.C.. In the case in hand, without following the procedure contained in Chapter XV of the Cr.P.C., the learned Chief Judicial Magistrate has straightaway issued summons to the appellants.

From a perusal of the record, it is also evident that the effort of the Appellants all along seems to have been to delay the proceedings. The appellants are present in person.

It is in these circumstances that the impugned Order is set aside. The matter is remanded to the Chief Judicial Magistrate to proceed in accordance with law especially in giving adherence to Chapter XV of the Cr.P.C. The Chief Judicial Magistrate shall proceed with expedition and complete the enquiry within three months from the date of receipt of this Order.

The Appeal stands disposed of with the aforesaid observation.

.....J
(VIKRAMAJIT SEN)

.....J
(SHIVA KIRTI SINGH)

NEW DELHI
FEBRUARY 24, 2015

ITEM NO.1

COURT NO.12

SECTION II

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.) No(s). 3495/2013

(Arising out of impugned final judgment and order dated 13/02/2013 in CRLRP No. 661/2010 passed by the High Court Of Judicature at Allahabad)

PUSHPENDRA & ORS.

Petitioner(s)

VERSUS

STATE OF U.P.& ANR.

Respondent(s)

(With Appln. For stay and Office report)
(For final disposal)

Date : 24/02/2015 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE VIKRAMAJIT SEN
HON'BLE MR. JUSTICE SHIVA KIRTI SINGH

For Petitioner(s) Mr. Ratnakar Dash, Sr. Adv.
Mr. Sibho Sankar Mishra, Adv.

For Respondent(s) Mr. Pramod Swarup, AAG
Mr. Som Raj Choudhary, Adv.
Mr. Abhishth Kumar, Adv.

Mr. Dinesh Kumar Garg, Adv.
Mr. Abhishek Garg, Adv.
Mr. Dhananjay Garg, Adv.
Mr. Deepak Mishra, Adv.

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

Leave granted.

The Appeal stands disposed of.

(NEELAM GULATI)
COURT MASTER

(TAPAN KUMAR CHAKRABORTY)
COURT MASTER

(Signed Order is placed on the file)