

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). 225 OF 2006

GAURAV GARG & ORS.

Appellant (s)

VERSUS

STATE OF U.P. & ORS.

Respondent(s)

(With appln(s) for permission to place addl. documents on record)

Date: 27/01/2011 This Appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE HARJIT SINGH BEDI  
HON'BLE MR. JUSTICE CHANDRAMAULI KR. PRASAD

For Appellant(s)

Ms. Indu Malhotra, Sr. Adv.  
Mr. G.B. Srivastava, Adv.  
Mr. Vivek Jain, Adv.  
Mr. K.K. Gupta, Adv.

For Respondent(s)

Ms. Chitra Markandaya, Adv. (NP)  
  
Mr. T.N. Singh, Adv.  
Mr. Rajeev K. Dubey, Adv.  
Mr. Kamalendra Mishra, Adv.

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

The appeal is partly allowed.

Interim order to continue.

[SUMAN WADHWA]  
COURT MASTER

[VINOD KULVI]  
COURT MASTER

Signed order is placed on the file.  
IN THE SUPREME COURT OF INDIA  
CRIMINAL APPELLATE JURISDICTION  
CRIMINAL APPEAL NO. 225 OF 2006

GAURAV GARG & ORS.

.. APPELLANT(S)

vs.

STATE OF U.P. & ORS.

.. RESPONDENT(S)

O R D E R

We find that at this stage a very limited direction is called for. All the respondents have been served but only the State of Uttar Pradesh is represented.

A complaint was filed by respondent No.4-Managing

Director, M/s. Aamena Paper & Board Mills, Nanauta,

District Saharanpur, before the Magistrate alleging that the appellant and several others were guilty of offences punishable under Section 420,467,468 471 and 477 read with Section 120-B of the IPC in that property which was the subject matter of the complaint and which had been purchased by the appellant in an auction had been undervalued and that a huge loss had been caused to respondent No.4 on that account. It was alleged that the property had been undervalued on account of a conspiracy hatched between the auction purchaser that is the appellant and respondent No. 4 as also the valuer. The Magistrate directed that the complaint be referred to the police under Section 156(3) of the Cr.P.C. for report and after receiving the report the Magistrate dismissed the complaint on the ground that the Court did not have the territorial jurisdiction.

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An appeal was thereafter taken by respondent No.4 to the Sessions Judge concerned who set aside the order and directed that the prosecution must proceed. The Sessions Court again ordered that the matter be referred for further investigation and after the report was received an FIR was duly registered. These proceedings were challenged by the auction purchaser, the appellant herein, by way of CrI. Misc. Writ Petition No.1418 of 2003 filed under Art.226 read with Section 482 of the Cr.P.C. praying for the quashing of the FIR. The High Court by the impugned judgment dated 25th March, 2003 held that without going to the merits of the controversy and the question as to whether the property had indeed been undervalued, and if so, at whose instance, the matter needed to be referred to the CBI so that all the culprits could be brought to book. This order has been challenged in the present proceedings.

As already indicated above, a very limited order is called in this case. After perusing the documents and

record and particularly the allegations made in the  
complaint we find that the matter does not require an  
investigation by the CBI as the dispute is a common  
place one between an auction purchaser and the original  
owner Respondent No.4.

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We however feel that as the High Court has not gone  
into the merits of the complaint to find out whether a  
criminal case was made out or not on the facts as alleged,  
it would be proper that the matter be remitted to the High  
Court for fresh decision on this aspect.

We accordingly partly allow this appeal, set aside  
the impugned order insofar as it refers the investigation  
to the CBI and remit the case to the High court on the  
other issues and on the merits of the controversy. We  
also direct that till the disposal of the matter by the  
High Court, the interim order dated 26th June, 2003, made in  
the present proceedings, shall continue to operate.

.....J.  
(HARJIT SINGH BEDI)

.....J.  
(CHANDRAMAULI KR. PRASAD)

New Delhi,  
January 27, 2011.