

+
SLP(Crl.)No. 3090 OF 2000

ITEM No.23

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
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. 3090/2000

(From the judgement and order dated 06/12/1999 in CRLOP 15734/99
of The HIGH COURT OF MADRAS)

STATE BY CBI, CHENNAI

Petitioner (s)

VERSUS

H.B.R. SHETTY

Respondent (s)

(With Appln(s). for ex-Parte stay and exemption from filing O.T.)
(With Office Report)

Date : 20/04/2001 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE G.B. PATTANAIAK
HON'BLE MR. JUSTICE U.C. BANERJEE

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

For Respondent (s) Mr. K.R. Chowdhary, Sr. Adv.
Ms. Prabha Swami, Adv.
Mr. Krishnamurthi Swami,Adv.

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

.....L.....I.....J
.SP2

Leave granted.

The appeal stands disposed of in terms of the signed
order.

.SP1

(J.S. Rawat)
Court Master

(Suneet Bala Sharma)
Court Master

(Signed order is placed on the file)

.PA
.PL58

IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. OF 2001@@
BB
(Arising out of SLP(Crl.) No. 3090 of 2000)

State By CBI, Chennai

...Appellant (s)

Versus

H.B.R. Shetty

...Respondent(s)

O R D E R~@@
BBBBBBBBBB

.....L.....I.....T.....T.....T.....T.....T.....T.....T.....J
.SP2

Leave granted.

The State is in appeal against an order of a learned Single Judge of Madras High Court quashing the criminal prosecution against the respondent - Shri H.B.R. Shetty who was, at the relevant point of time, the Assistant General Manager of Vijaya Bank. The prosecution case was that accused no.1, the present respondent as Assistant General Manager, recommended the sanction of the loan and forwarded the matter to the Head Office whereafter the Head Office sanctioned the loan and on the basis of the materials elicited in course of the investigation the Competent Authority has issued a sanction order dated 22nd of July, 1992 sanctioning prosecution of these accused persons under the provisions of the Prevention of Corruption Act read with the provisions of Sections 120-B, 420 467 & 471 of IPC. On an application being filed by the present respondent-accused no.1 alleging that there has been no valid sanction of the Competent Authority,
...2

(2)

the High Court by the impugned order came to the conclusion that the sanctioning Authority has not applied his mind to the relevant materials and as such the sanction is invalid. On examining the impugned order of the Sanctioning Authority more particularly the assertions made in the same to the effect that accused no. 1 - Shri H.B.R. Shetty even before the receipt of the letter of the party and the branch recommendation, sent a message to the Head Office in respect of the proposal in question, it is difficult for us to sustain the ultimate conclusion arrived at by the High Court at this stage. It may be possible for the accused to establish the same in course of the trial while arguing the matter finally. But on the existing materials the conclusion of the High Court cannot be sustained and in our view the criminal prosecution on the ground of invalidity of sanction could not have been quashed. In that view of the matter, we set aside the impugned order of the High Court and direct that the trial be proceeded with.

The appeal stands disposed of accordingly.

.SP1

.....J@@
BBBBBBBBBBBBBBBBBBBB
(G.B. PATTANAİK)@@
BBBBBBBBBBBBBBBBBBBB

New Delhi,
April 20, 2001.

.....J@@
BBBBBBBBBBBBBBBBBBBB
(U.C. BANERJEE)@@
BBBBBBBBBBBBBBBBBBBB