

ITEM NO.203

COURT NO.6

SECTION IIA

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). 3417/2012

(Arising out of impugned final judgment and order dated 05/03/2012 in CRWP No. 3617/2011 passed by the High Court Of Bombay)

SAGAR SHIVAJIRAO JONDHALE

Petitioner(s)

VERSUS

STATE OF MAHARASHTRA & ORS.

Respondent(s)

(with appln. (s) for exemption from filing c/c of the impugned order and exemption from filing O.T. and permission to file additional documents and stay and office report)

Date : 06/04/2015 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE J. CHELAMESWAR

HON'BLE MR. JUSTICE R.K. AGRAWAL

For Petitioner(s) Mr. R. Basant, Sr. Adv.
Mr. Sushil Karanjkar, Adv.
Mr. Ratan Wasekar, Adv.
Mr. K. N. Rai, Adv.

For Respondent(s) Mr. B. Adinarayan Rao, Sr. Adv.
Mr. Ravindra Keshavrao Adsure, Adv.
Mr. Venkateshwar Rao Anumulu, Adv.

Mr. Shankar Chillarge, Adv.
Ms. Sonia Shankar Chillarge, Adv.
Mr. A.P. Mayee, Adv.
Ms. Asha Gopalan Nair, Adv.

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

Aggrieved by an order of the High Court dated 5th March, 2012 in Criminal Writ Petition No. 3617 of 2011 of the Bombay High Court, the instant special leave petition is filed.

The fourth respondent herein approached the High Court by the above-mentioned writ petition alleging that his complaint disclosing a cognizable offence made to the police was not registered. The fourth respondent, therefore, sought certain directions to the Police in the above-mentioned writ petition.

The petitioner herein, it appears, is the son of the fourth respondent. The complaint allegedly lodged by the fourth respondent on 2.8.2011 is annexed as P1 to the instant special leave petition. From the reading of the above mentioned said document, the gist of the complaint appears to be that the petitioner along with others utilised the funds of the trust known as Samarth Samaj Trust in a manner inconsistent with the obligations of a trustee. We do not propose to make any further analysis of the allegations contained in the said document at this stage.

In the background of the above-mentioned writ petition, by the impugned order the High Court disposed of the writ petition. We are sad to state that it is rather difficult to understand what exactly the High Court directed in the matter. The relevant portion of the impugned order reads as follows:-

"In our view, since no steps have been taken by the investigating officer, it would be appropriate if a direction is given to the respondent no. 3 to register an FIR on the complaint lodged by the petitioner and after the complaint is registered, the investigation shall be transferred to State CID, who shall carry out the investigation in accordance with law and fine an

appropriate report as expeditiously as possible. Preferably, the Investigating Officer should not be below the rank of Dy. S.P. and if the cognizable offence is disclosed, they shall register an FIR and shall investigate the same as expeditiously as possible. With these directions, the writ petition is disposed of."

Learned senior counsel for the petitioner Mr. R. Basant, placed reliance on the judgment of this Court in Sakiri Vasu Vs. State of Uttar Pradesh and others 2008(2) SCC 409 and argued that the High Court ought not to have entertained the writ petition at all in the light of the above judgment. On the other hand, Mr. Adinarayana Rao, learned senior counsel for the respondent argued that in view of the serious allegations contained in the complaint dated 2.8.2011(supra), the interference of this Court with the impugned order under Article 136 of the Constitution is not called for.

The judgment of this Court in Sakiri Vasu Vs. State of Uttar Pradesh and others(supra) does not impose any absolute bar on the jurisdiction of the High Courts for entertaining the writ petitions such as the case in issue. This Court held that ordinarily such writ petitions are not to be entertained as there is an adequate and efficacious remedy under the Code of Criminal Procedure for alleviation of the grievances of the complainants whose complaints are not registered by the police.

In view of the fact that the complaint was of the year 2011, we do not propose to interfere with the impugned order only on the ground that the fourth respondent has an efficacious remedy under the Code of

Criminal Procedure. Sufficient time is already lost. We are informed by the learned senior counsel for the respondent that as there was no interim order during the pendency of the instant special leave petition, in obedience to the directions contained in the impugned order, Maharashtra State CID has already registered a crime on the basis of the complaint of the fourth respondent and the investigation is in progress.

In the circumstances, we deem it appropriate to direct the Maharashtra State CID to expeditiously complete the investigation and submit a final report before appropriate Court. If the petitioner has any grievance against the final report, he may pursue the remedies as may be available to him under law.

The special leave petition is disposed of accordingly.

(DEEPAK MANSUKHANI)
COURT MASTER

(INDU BALA KAPUR)
COURT MASTER